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# DOMESTIC CORPORATION LAWS.

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## CHAPTER 69.

### CORPORATIONS. 3445-3661.

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## ARTICLE 1.

**MODE OF INCORPORATION AND ORGANIZATION. 3445-3460.**

**SECTION.**

- 3445. How to incorporate.
- 3446. Certificate, contents of.
- 3447. Statement under oath as to amount of subscription paid in.
- 3448. Filing and recording certificate.
- 3449. Certificate for registration, fees for recording.
- 3450. Charter fees, amounts and how paid.
- 3451. Certificate not filed until fees are paid.
- 3452. Fees reported to auditor.
- 3453. Fees for increasing capital stock.
- 3454. When a body corporate.
- 3455. Statement to be filed with secretary of state.
- 3456. Alphabetical list of corporations kept by secretary of state.
- 3457. Forfeiture for failure to file certificate.
- 3458. List furnished by judges of probate.
- 3459. Penalties.
- 3460. Purchasers may incorporate.

3445. *How to incorporate.*—Three or more persons may become a body corporate for the purpose of carrying on any lawful business or businesses of any kind or nature whatsoever upon making and filing a certificate pursuant to the provisions of this article.

3446. *Certificate, contents of.*—The certificate of incorporation shall be signed by all the subscribers to the capital stock named therein, and shall set forth:

(1) *Name of corporation.*—No name shall be assumed which is identical with that of any corporation already existing in this State, or so nearly similar thereto as to lead to confusion and uncertainty, nor shall the name of any person or partnership be assumed without the addition of some word or words designating the nature of at least one of the businesses to be carried on, followed by the word "company," or "corporation," and "Inc."

(2) *Object.*—The object or objects for which the corporation is formed.

(3) *Location.*—The location of its principal office in this State.

(4) *Capital stock.*—The amount of the total authorized capital stock, which shall not be less than two thousand dollars; the number of shares into which the same is divided; the amount of capital stock with which it will begin business, which shall not be less than twenty-five per cent of the authorized capital, and in no case less than one thousand dollars; but if the corporation is formed for the purpose of carrying on the business of banking or that of a trust company, the amount of capital stock with which it will begin business shall in no case be less than twenty-five thousand dollars; or if the corporation is formed for the purpose of carrying on the business of insurance in any of its branches, or of any kind or nature, whatsoever, except title guaranty companies, the amount of capital stock with which it will begin business shall in no case be less than one hundred thousand dollars. If there be more than one class of stock created by the certificate there shall also be stated a description of the different classes of stock, with the term of which each class is created.

(5) *Officer to receive subscription.*—The name and postoffice address of the officer or agent designated by the incorporators to receive subscriptions to the capital stock.

(6) *Incorporators and shares.*—The names and post-office addresses of the incorporators, and the number of shares subscribed for by each; the aggregate of such subscription shall be the capital stock with which the company may commence business; the names and post-office addresses of the directors and the officers chosen for the first year.

(7) *Time limit.*—The period, if any, limited for the duration of the corporation.

(8) *Special requirements.*—If the corporation is a railroad, or a railway, canal, navigation, or other transportation company, unless it is proposed to do business in only one town or city, the certificate shall also state the terminal and such other points along the lines of such company as the incorporators may deem proper; and if a navigation company, it shall also contain the names of the streams, seas, or other bodies of water with-

in the jurisdiction of this State it is proposed to navigate, and whether or not it will engage in interstate and foreign commerce. If the corporation is a telegraph or telephone company, the certificate shall state the names of the county or counties in which it is proposed to do business.

(9) *For public or municipal works.*—If the corporation is formed for the purpose of constructing, operating, or maintaining, or purchasing any work or plant of internal improvement or public utility, other than those named in the next preceding subdivision, the certificate shall also state the names of the counties, cities, towns, or other municipal subdivision in which it is proposed to do business, together with the streets and other public places thereof, in or near, or between, which it is proposed to construct or operate such works of internal improvements or public utility; if the business of the corporation includes that of supplying water to any such municipal subdivision, or the inhabitants thereof, the certificate shall also state the stream or streams, or other sources from which it will derive its water supply; and if it is proposed to furnish any such municipal subdivision with a sewerage system, the method of disposing of the sewerage shall be stated, together with the names of any stream or body of water, if any, and the point or points thereon, into which the sewerage will be discharged.

(10) *Special provisions.*—The certificate may also contain any other provision which the incorporators may choose to insert for the regulation of the business and for the conduct of the affairs of the corporation, the directors and stockholders, or any class or classes of stockholders; provided, that such provision be not inconsistent with this article or the constitution of the State.

**3447. Statement under oath as to amount of subscription paid in.**—The certificate shall have attached to it a statement under oath by the person authorized by the incorporators to receive subscriptions to the capital stock showing the amount of capital stock which has been paid in and the amount of stock secured by contracts for stipulated labor or services or transfer of property, which amount so paid in and secured shall be

at least twenty per cent of the stock subscribed for, and in no case less than one thousand dollars; provided, that if the corporation is formed for the purpose of banking, or trust companies, the amount actually paid up in cash shall in no case be less than sixty per cent of the capital stock, and, if formed for the purpose of carrying on the business of insurance in any of its branches, except title guaranty companies, the amount actually paid up in cash shall in no case be less than one hundred thousand dollars; such statement shall include a copy of the subscription list, and shall show by which of the subscribers payments have been received in cash and the amount paid by each, and by which of the subscribers contracts in writing have been executed for the performance of stipulated labor, or services, or for the transfer and conveyance of property, in which they are privileged to discharge their subscriptions.

**3448. (1285) (1682) *Filing and recording certificate.***—The certificate of incorporation shall be filed and recorded in a book to be kept for that purpose, in the office of the probate judge of the county in which the principal business of the corporation is established; but the judge shall not record it unless it complies with the provisions of this article.

**3449. *Certificate of registration, fees for recording.***—After it has been recorded the probate judge shall indorse thereon his certificate of registration, showing the book and page where recorded, and for his services for recording the certificate shall receive fifteen cents for each one hundred words of the certificate of incorporation, and two dollars and fifty cents cents for examining the certificate.

**3450. (1287-1290) *Charter fees, amounts and how paid.***—At the time the certificate is filed in the office of the judge of probate, the incorporators shall pay to the probate judge for the use of the State, one dollar for every one thousand dollars of the proposed capital stock, but in no case less than five dollars.

*3451. Certificate not filed until fees are paid.*—The certificate shall not be received for filing by the probate judge until such fees are paid.

*3452. Fees reported to auditor.*—Such fees shall be reported to the State auditor and the money paid into the State treasury in the same manner as licenses issued by the probate judge are required to be reported and the money paid into the State treasury.

*3453. Fees for increasing capital stock.*—Before the report of the proceedings of the stockholders increasing the capital stock of the corporation shall be filed, the corporation shall pay to the judge of probate, to be reported to the State auditor and paid into the State treasury as above provided, the fees as above prescribed upon the increase of such capital stock.

*3454. When a body corporate.*—When the certificate has been made, recorded, and filed as provided, the incorporators, their successors and assigns, shall constitute a body corporate under the name set forth in the certificate, but subject to dissolution as provided for in this Code.

*3455. Statement to be filed with secretary of State.*—Within ten days after the filing of the certificate in the office of the probate judge as provided, he shall cause to be filed in the office of the secretary of State a statement signed by the probate judge of the county in which the corporation was organized, giving the name of the corporation, the names of its incorporators, the date of its incorporation, the amount of its capital stock, and the amount thereof actually paid in, and the name of the county in which incorporated. And for filing such statement there shall be paid, in advance to the probate judge for the use of the State, a fee of two and a half dollars.

*3456. Alphabetical list of corporations kept by secretary of State.*—The secretary of State shall keep in a book provided for that purpose an alphabetical list of the corporations, statements of whose incorporations

are filed in his office, together with the data contained in such statement.

*3457. Forfeiture for failure to file certificate.*—In the event of the failure of the probate judge to cause such statement, as required by this article to be filed in the office of the secretary of State, the corporation shall forfeit fifty dollars to the State, to be recovered at the suit of the State.

*3458. List furnished by judges of probate.*—The secretary of State shall also require the judge of probate of each county in this State, from time to time, to forward to the secretary of State a list alphabetically arranged of all corporations whose proceedings of incorporation are on file in his court, not theretofore reported and certified by him, giving the original name of such corporation and the date of its organization, and also any change made in the name of such corporation and the date of the change in its name, such list to be certified under the seal of the court.

*3459. Penalties.*—Any judge of probate who shall fail or refuse to furnish to the secretary of State the list provided for in the foregoing section within sixty days from the demand therefor, shall be liable to a penalty of not less than two hundred and fifty dollars, nor more than five hundred dollars, and a like penalty for each additional thirty days that he shall fail or refuse to furnish such list, or fail or refuse to make the certificate or statement provided for in section 3455 of this Code, to be recovered at the suit of the State.

*3460. Purchasers may incorporate.*—The purchaser or purchasers at any sale, public or private, of the property or franchises of any corporation, if not a corporation authorized by the laws of this State to purchase and hold the property of such corporation, may, within thirty days after such sale and conveyance, become incorporated, as provided by the general incorporation laws of this State, and such purchaser or purchasers may associate with himself or themselves the requisite number of other persons to become incorporated; and upon the

organization of such corporation, and the conveyance to it of the property and franchises of such corporation by such purchaser or purchasers, such corporation shall become and be entitled to, and shall have, hold and enjoy, all such property rights and franchises.

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## ARTICLE 2.

### AMENDING OR CORRECTING ERRORS IN FRANCHISES OR INCORPORATION. 3461, 3462.

#### SECTION.

3461. To correct errors or omissions of incorporation.

3462. Change or amendment of charter, and scope of business; how effected.

*3461. To correct errors or omissions of incorporation.*

—If any corporation formed under this chapter has accidentally or inadvertently failed to comply with the requirements of this chapter in its organization, the president or other chief executive head of the corporation may supply such omission or defect by filing in the office of the judge of probate of the county in which the corporation was organized a statement in writing and under oath setting forth the omission or error and supplying or correcting the same; and such filing shall relate back to the organization of the company, except as to rights of third persons which have intervened.

*3462. Change or amendment of charter, and scope of business; how effected.*—Every corporation chartered under this chapter or under any general or special law of this State may change the nature of its business, the par value of the shares of its stock, change the location of its principal office in this State, renew or extend its corporate existence, change its corporate name, and make such other amendment, alteration, or change of its charter as may be desired in the following manner: the board of directors shall pass a resolution declaring that such change or alteration or extension is desirable and calling a meeting of the stockholders to take action

thereon; if the holders of the larger amount in value of each class of stockholders having voting powers shall vote in favor of such alteration, change, amendment, or renewal or extension, a certificate thereof shall be signed by the president and secretary under the corporate seal, acknowledged or proved as in the case of deeds of real estate, and such certificate, together with the written assent, signed in person or by proxy, of the stockholders holding a majority in value of each such class, shall be filed in the office of the judge of probate of the county where the corporation has its principal place of business, and upon the filing of the same the certificate of incorporation shall be deemed to be so amended, or the corporate existence so renewed or extended; provided, that such certificate of change, alteration, amendment, renewal, or extension, shall contain only such provisions as would be lawful and proper to insert in an original certificate of incorporation, made at the time of making such amendment.

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### ARTICLE 3.

#### DIRECTORS OF CORPORATIONS. 3463-3466.

##### SECTION.

- 3463. Directors; number and term of office.
- 3464. Failure to elect directors, effect of.
- 3465. Majority of directors a quorum.
- 3466. Increase or diminish directors.

*3463. Directors; number and term of office.*—Every corporation organized under article one of this chapter must have at least three directors, who shall be owners of stock of the corporation, and who shall be elected annually, and hold office for one year and until their successors are elected.

*3464. Failure to elect directors, effect of.*—Failure to elect directors shall not work a dissolution of the corporation, but the existing board of directors shall con-

tinue to manage the affairs of the corporation until their successors are elected.

3465. *Majority of directors a quorum.*—A majority of the directors shall constitute a quorum for the transaction of business. Failure to elect officers at any time designated for their election shall not work a dissolution of the corporation, but the several officers thereof shall continue to hold office until their successors are elected. Vacancies occurring in the board of directors must be filled by the remaining directors.

3466. *Increase or diminish directors.*—Every corporation formed under article one of this chapter may increase or diminish the number of its directors with the consent of the persons holding the larger amount in value of the capital stock, expressed by a vote of such persons at a regular meeting or a special meeting called for that purpose.

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## ARTICLE 4.

### STOCK AND STOCKHOLDERS. 3467-3480.

#### SECTION.

- 3467. Capital stock; how paid.
- 3468. Stockholders' liability.
- 3469. Certificate.
- 3470. Shares are personal property.
- 3471. Transfer of stock must be registered on books.
- 3472. Powers of executors and administrators as to stock.
- 3473. Register of stockholders to be kept.
- 3474. Stock subject to attachment, levy, sale, etc.
- 3475. Levy and sale, how and when made.
- 3476. Lien on stock for debts of stockholder.
- 3477. Books open to inspection.
- 3478. Stockholders' meetings, how called, notice of, etc.
- 3479. Issue of preferred stock by all corporations.
- 3480. Increase or decrease of capital stock or bonded indebtedness.

3467. *Capital stock; how paid.*—All subscriptions to or for the capital stock of the corporation must be pay-

able in money, but may, except as otherwise provided in this article, be discharged by the rendition of stipulated necessary services or the performance of stipulated necessary labor, or the transfer of property, at the reasonable value thereof, but in such cases the subscription list shall state the names of the subscribers who are privileged to discharge their subscriptions in services or labor or property, and the nature and character of the services of labor in which the same are rendered or performed, and the character and a brief description of such property, and when it is to be transferred to the company.

3468. *Stockholder's liability.*—No stockholder shall be liable for the debts of the corporation otherwise than the unpaid stock owned by him or her.

3469. *Certificate.*—Every stockholder is entitled to have a certificate signed by the president and secretary or treasurer of the corporation, certifying the number of shares owned by him in the capital stock.

3470. *Shares are personal property.*—Shares or interest in the stock of corporations herein provided for are personal property, transferable on the books of the corporation in the manner hereinafter provided.

3471. *Transfer of stock must be registered on books.*—The transfer of stock of such corporation must be made or registered on the books of the corporation, and persons holding stock not so transferred or registered, or holding any stock under hypothecation, mortgages, or other lien, must have a transfer, hypothecation, mortgage, or other lien, made or registered as aforesaid, or upon failing so to do within fifteen days, all such transfers, hypothecations, mortgages, or other liens shall be void as to judgment creditors or subsequent purchasers without notice.

3472. *Powers of executors and administrators as to stock.*—An executor or administrator deriving his appointment from a court of probate or chancery of this State, or if the testator or intestate reside without the

State, from the proper tribunal of his domicile, may transfer the shares of stock held and owned by such testator or intestate in any private corporation existing under the laws of this State; payment of dividends on such stock may be made to such executor or administrator.

3473. *Register of stockholders to be kept.*—Every such corporation shall keep at its principal office in this State, in the hands of some officer, agent, or other person designated for that purpose, a true statement or book showing who are the holders of such stock therein, and all transfers and hypothecations thereof.

3474. *Stock subject to attachment, levy, sale, etc.*—The shares of stock of corporations are subject to levy and sale under attachment and execution as in other personal property, and the levy may be made with or without the officer having or obtaining the possession of the certificate of stock, by endorsement on the attachment or execution or other process, stating the number of shares, or other interests, in which the levy is made, and giving notice thereof to the custodian of the books of transfer, if he be known, and reside within the State, or if he be unknown, or if he reside without the State, by posting notice at the courthouse door of the county and by publication for three consecutive weeks in a newspaper published at or nearest the principal place of business of such corporation; all transfers of the stock, made in good faith and for a valuable consideration before the notice of the levy is given, are valid and operative and must prevail over the levy.

3475. *Levy and sale, how and when made.*—The levy and sale thereunder may be made in the county of the residence of the defendant, or in the county in which the corporation has its principal place of business; and on making the sale, the sheriff must make to the purchaser a transfer of the stock in writing; and the purchaser has the right to require the proper officer to register such transfer on the book of the corporation; and with or without such registry, is entitled to all the rights

and interests of the defendant as whose property such stock was sold.

3476. *Lien on stock for debts of stockholder.*—All such corporations have a lien on the shares or its stockholders, for any debt or liability incurred to it by a stockholder, before a notice of a transfer or levy on such shares; and if necessary for the payment of such debt or the satisfaction of such liability, the corporation may sell the shares after notice of thirty days sent through the mail, postage paid, to the stockholder, or if he be dead, to his personal representative, at the postoffice nearest his last known place of residence, or after personal demand of payment or satisfaction from either, if such demand be not complied with in thirty days, such sale to be made at public auction to the highest bidder after ten days' notice of the time and place, by publication in some newspaper published at the principal place of business of the corporation, or nearest thereto.

3477. *Books open to inspection.*—The stockholders of all such corporations have the right of access to, and of inspection and examination of, the books, records, and papers of the corporation, at reasonable and proper times.

3478. *Stockholders' meetings, how called, notice of, etc.*—Meetings of the stockholders of a corporation shall be held annually, of which meetings, as well as special meetings, notice shall be given as the by-laws prescribe, but in all cases in which a meeting of the stockholders is required by the provisions of this article for any special purpose, such meeting shall be called by the directors, and, unless in this article otherwise provided, thirty days' notice of the time, place, and purpose of the meeting shall be given to each stockholder whose residence is known, personally or by letter, properly addressed with postage prepaid, and deposited in the post-office, and also by publication once a week for four consecutive weeks in a newspaper published at the principal place of business of the corporation, or if none be published there, in a newspaper published in a place nearest to such principal place of business in which

a newspaper is published; at all stockholders' meetings, the stockholders may vote by proxy.

**3479. Issue of preferred stock by all corporations.**—Any corporation organized under article one of this chapter may issue preferred stock by a vote of two-thirds in value of the capital stock at a meeting called for that purpose, and if at such meeting the persons holding two-thirds in value of the capital stock vote for the issue of preferred stock, the proceedings of the meeting must be reduced to writing, and certified by the president, or chief executive head, or the secretary of the corporation, under the corporate seal, and filed and recorded in the office of the secretary of State, and thereafter preferred stock in no case exceeding two-thirds of the capital stock paid for in cash or property may be issued; each stockholder shall be first entitled to the privilege of taking such preferred stock in proportion to the amount of common stock held by him, or a less amount if he should desire it, before the preferred stock is offered for sale to the public. The issue of preferred stock may be provided for at the time of the organization with the assent of the original subscribers to the capital stock expressed in their subscriptions.

**3480. Increase or decrease of capital stock or bonded indebtedness.**—The capital stock or bonded indebtedness of any corporation formed under article one of this chapter or heretofore incorporated under the general or special law of this State may be increased by the consent of the persons holding the larger amount in value of the capital stock obtained in favor thereof at a regular meeting of the stockholders, or at a special meeting of the stockholders called for that purpose, the notice of which regular or special meeting shall state what increase is proposed to be made in the capital stock or indebtedness of the corporation; if at such meeting consent of the holders of the larger amount in value of the capital stock shall be given to a specified increase of the capital stock or bonded indebtedness, a report thereof, certified by the president or secretary of the corporation, under the corporate seal, must be filed and recorded in the office of the judge of probate of the county in which

the corporation was organized, and thereafter it shall be lawful for the corporation to increase its capital stock or bonded indebtedness in conformity with such consent to an amount equal to or less, but not greater than, that stated in the published notice of the meeting. Any such corporation may by like proceedings decrease its capital stock, and after it shall be so authorized to decrease its capital stock, such decrease may be effected by retiring or reducing any class of the stock, or by the surrender by every shareholder of his shares and the issue to him in lieu thereof of a decreased number of shares, or by the purchase at not above par of certain shares for retirement, or by retiring shares owned by the corporation, or by reducing the par value of the shares, provided no such decrease of capital stock shall release or otherwise affect the liability of any stockholders whose shares shall not have been fully paid, for debts of the corporation theretofore contracted. The capital stock of building and loan associations heretofore or hereafter organized under the laws of this State may be increased to a sum not exceeding ten million dollars, in the manner provided in this section.

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## ARTICLE 5.

### POWERS, RIGHTS AND DUTIES OF CORPORATIONS. 3481-3501.

#### SECTION.

3481. General powers of corporations.
3482. Power of eminent domain and to condemn.
3483. Consent of city, town, or village to use streets, etc., must be first obtained.
3484. Railroad right of way for main line, switches, etc., may be acquired.
3485. Mining, manufacturing, and quarrying corporations may acquire or condemn rights of way, tunnels, subways, etc.
3486. Street railroads, telegraph, telephone, water, gas, electric, canal companies may acquire rights of way and rights of condemnation.
3487. Lines, works, etc., not to be constructed through yards, curtilage dwellings, gardens, stable lots, etc.

- 3488. Waterworks companies may acquire rights, riparian rights, lands, etc.
- 3489. Joint or several proceedings.
- 3490. Municipal consent necessary.
- 3491. Water source not twice condemned.
- 3492. Power of railroads to condemn for depot, freight yards, team tracks, etc.
- 3493. Railroads, mining corporations, etc., may enter on land to make survey, examination for proposed lines, works, etc.
- 3494. Railroads to acquire and operate steamboats, etc.
- 3495. Right to convey franchises, rights, property, etc.
- 3496. Corporations may aid one another in construction as to connections and extensions of two or more corporations.
- 3497. A corporation may purchase, lease, hold or use other corporate property.
- 3498. Stockholders at meeting called by directors must assent to such aid, purchase, lease, etc.
- 3499. Proceedings to carry out extensions, connections, branch roads, etc.
- 3500. Rights of way by mining corporations to make connections of their works with public highway, etc., acquired by condemnation, etc.
- 3501. Street railway, gas, and other companies may contract with cities, towns, etc., for use of streets, etc.

3481. (1256, 1248, 1193, 1163, 1103, 1144) *General powers of corporations.*—Every corporation organized under article one of this chapter shall have the following powers:

(1) *Time limit.*—To have succession by its corporate name for the period limited in the certificate of incorporation, and when no period is limited, perpetually; except that corporations formed for the purpose of carrying on the business of banking shall not be extended beyond twenty years from the date of their organization, unless renewed or extended as in this chapter provided.

(2) *Suits and seal.*—To sue and be sued, and to make and use a corporate seal, and to alter the same at pleasure.

(3) *As to real estate, debts, mortgages, etc.*—To acquire, hold, purchase, receive by bequest, or devise, or in payment of subscription for stock or in payment for

stock issued and sold, and to convey and otherwise dispose of, all such real and personal property as may be necessary or convenient for the efficient construction, operation ,or maintenance of its work or plant, line, shops, factories, or other buildings, or for the conduct or management of its business or businesses, or as its purpose may require, and all other real or personal property which shall have been bona fide conveyed, transferred, pledged, or mortgaged to the corporation by way of security for, or in satisfaction of debts, or purchased at sale under judgment or decree obtained for such debts; to borrow money, issue notes, bonds, or other negotiable paper or mortgage, pledge, or otherwise transfer or convey its real and personal property to secure the payment of money borrowed or any debt contracted, unless otherwise provided. No bonded indebtedness of a corporation shall be created or increased, nor its real property mortgaged, except by the consent of the persons holding the larger amount in value of the capital stock of the corporation present and voting in person or by proxy, at the meeting of the stockholders called for that purpose, or at a regular meeting ; and provided, further, that the board of directors may mortgage or otherwise pledge, transfer, or convey the personal property of the corporation to secure money borrowed by it, and any debt contracted by it without first obtaining the consent of the stockholders.

(4) *Officers and agents.*—To appoint and employ such officers and agents as the business of the corporation may require.

(5) *By-laws, etc.*—To make and alter at pleasure all needful by-laws, rules, and regulations for the transaction of its business, and the control of its property and affairs ,for the transfer of the stock, and for the creation and preservation of a lien upon the shares of its stockholders for any debt or liability they may incur to the company.

(6) *Dissolution.*—To wind up and dissolve itself or be wound up and dissolved in the manner in this chapter provided.

(7) *Meetings of directors out of state; agent in state; service, etc.*—To have meetings of its board of directors within or without this state and, with the con-

sent in writing of all the holders of the capital stock who reside in this State, acknowledged before an officer authorized to take acknowledgments, and recorded in the office of secretary of State, to hold stockholders' meetings without the State; but every corporation must keep a principal office in this State and an agent thereat, and all corporations holding their stockholders' meeting without this State shall cause the name and residence within this State of such agent to be certified by the president or other managing head or the secretary of the corporation, under the corporate seal, which certificate shall be filed in the office of the secretary of State, and in the office of the probate judge of the county in which it has its principal office, and a like certificate must be made and so filed as often as there is a change of such agent. Copies of the proceedings of the stockholders' and directors' meetings held without this State must be deposited with such agent, and are admissible in evidence against the corporation; written consent of the stockholders residing in the State for stockholders' meetings to be held without this State, once filed in the office of the secretary of State, shall continue in force as to those signing the same, till the same is revoked by an instrument of writing executed by one or more of such stockholders, his or their lawful representatives, acknowledged and filed in the office of the secretary of State, and all such instruments consenting to stockholders' meetings without this State or revoking such consent, must be recorded by the secretary of State. Service of any process upon the designated agent of the corporation herein required, is service upon the company, but service upon the company may be had in any other manner provided by law.

(8) *To carry on business locally.*—To carry on the business or businesses, expressed in the certificate of incorporation, so far as consistent with this chapter.

(9) *Businesses in other States or foreign countries.*—To carry on its business or businesses in other states or foreign countries, and to acquire, hold, transfer, mortgage, and convey real and personal property in such States and foreign countries.

(10) *To acquire stocks and bonds of other corporations.*—To subscribe for, acquire, hold, and dispose of

the stock, bonds, or other evidence of indebtedness of any other corporation of this or any other State or foreign countries, and while owner thereof to exercise the rights, privileges, and powers of ownership, including the right to vote, subject to the limitations of such rights in this chapter contained; provided, that no telegraph or telephone company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph or telephone company owning a competing line or acquire by purchase or otherwise any other competing line of telegraph or telephone.

(11) *As to consolidation.*—To consolidate, before or after the completion of its works or plants in the manner herein provided, with any other corporation or corporations; provided, that no corporation formed for the purpose of carrying on the business of banking or insurance shall consolidate with any other corporation than corporations engaged in the business of banking or insurance or trust companies doing a banking business. No railroad shall consolidate with any other than railroad corporations or companies; but when any two or more railroads, or contemplated railroads, which, when completed, will admit the passage of burden or passenger cars over any two or more such railroads, continuously and without break or interruption directly or by means of intervening lines, such companies may, before or after completion, consolidate into a single corporation.

(12) *To increase or decrease stock.*—To increase or decrease its capital stock in the manner hereinafter provided.

(13) *To alter or amend charter.*—To alter or amend its charter.

(14) *To renew or extend corporate existence.*—To renew or extend its corporate existence.

(15) *Mining, manufacturing, and quarrying corporations,* and all other corporations formed for the purpose of carrying on any private enterprise or enterprises, and not for the purpose of constructing, operating, or maintaining any work of internal improvement or public utility, except banking corporations, insurance corporations, and building and loan associations, may acquire, hold, and dispose of real and personal property

and engage in business as natural persons may, and may exercise all such powers as are expressed in the certificate of incorporation, if not inconsistent with any provisions of this chapter or of the constitution of this State.

3482. *Power of eminent domain and to condemn.*—Corporations formed for the purpose of constructing, operating, or maintaining railroads, street railroads, gas or electric works, water companies, power companies, canals, terminals, bridges, viaducts, wharves, piers, telegraph or telephone lines, or any other work of internal improvement or public utility, may exercise the power of eminent domain in the manner provided by law.

3483. *Consent of city, town, or village to use streets, etc., must be first obtained.*—No person, firm, association, or corporation shall be authorized to use the streets, avenues, alleys, and other public places of cities, towns, or villages for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of said city, town, or village.

3484. *Railroad right of way for main line, switches, etc., may be acquired.*—Railroad companies may by condemnation acquire real estate for ways and rights of way, not exceeding one hundred feet in width throughout the entire length of its lines, and such other lands as may be necessary for ways and rights of way for switches, turnouts, sidetracks, extensions, and branch roads, or for protecting, making, and keeping safe and perfecting its roadway, together with the right to remove all such trees outside thereof as might by falling upon, or shading the roadway, injure the same, and may relocate any portion of its line, for the purpose of straightening or otherwise improving the same, and for that purpose acquire by gift, purchase, or condemnation, all necessary rights of way over lands and abandon its original or constructed line, but it shall not change its termini or make an entire departure from its original line between such termini.

*3485. Mining, manufacturing, and quarrying corporations may acquire or condemn rights of way, tunnels, subways, etc.*—Mining, manufacturing, power and quarrying companies may acquire by condemnation lands for ways and rights of way for railways, tramways, canals, aqueducts, tunnels, underground passages, and roads whereby to connect any part of their lands, or works, with their principal place of business, or with any public road, railroad, or navigable waters, or with their mines on other lands, not exceeding one hundred feet in width throughout the length of such railways, tramways, canals, aqueducts, tunnels, underground passages, or roads.

*3486. Street railroads, telegraph, telephone, water, gas, electric, canal companies may acquire rights of way and rights of condemnation.*—Street railroad companies, telegraph, telephone, water, gas, electric, power, canal companies, and all other companies formed for constructing, operating, or maintaining any work of internal improvement or public utility may acquire by condemnation for a right of way for their railways, lines, tunnels, canals, dams, excavations, or works, lands for ways and rights of way not exceeding one hundred feet in width, throughout the entire length of such railways, lines, tunnels, canals, dams, excavations, or works, together with the right to cut down such trees as might, by falling injure the same.

*3487. Lines, works, etc., not to be constructed through yards, curtilage dwellings, gardens, stable lots, etc.*—No street railroad company or any other corporation shall, without the consent of the owner, construct any railway, tramway, canal, tunnel, underground passage, telegraph or telephone line, aqueduct, pipe line, or any other line or works through any yard or curtilage of a dwelling house, garden, stable lot, or barn.

*3488. Waterworks companies may acquire rights, riparian rights, lands, etc.*—Corporations authorized to construct and operate waterworks for the supplying of cities, villages, towns, and their inhabitants, or others living or doing business in the vicinity of them, with wa-

ter, shall have the power, in order to obtain a supply of water for their reservoirs, pipes, and canals, to take, divert, and use after condemning the same, water of any river or stream or spring or other water source which it may be necessary for them to use for such purpose, and may also acquire by condemnation riparian rights and all such lands adjacent to such streams or water sources as shall be necessary to protect and preserve the purity of such supply; and shall also have the power to condemn rights of way for pipe lines, ditches, canals, dams, reservoirs, and other necessary purposes for the operation of their waterworks and the collection and distribution of the water supply, and for this purpose said company may institute ad quod damnum proceedings against the riparian land owners or owner along said river or streams or of other water sources, in the probate court of the county in which the lands, in which the easement sought to be condemned, are situated in accordance with the general laws of this State providing for the condemnation of lands for public purposes.

**3489. Joint or several proceedings.**—In proceedings to condemn under the preceding section, any number of or all the riparian proprietors or other owners along said river, stream, or other water source in the same county, may be joined in one proceeding or be proceeded against separately.

**3490. Municipal consent necessary.**—No right of way shall be granted over the streets, avenues, alleys, or public grounds of any municipal corporation without first obtaining the consent of the municipal authorities thereto.

**3491. Water source not twice condemned.**—No corporation shall have the right to condemn the water of any stream, spring, or other water source which is the property of another water company supplying with water a city, village, or town, or the inhabitants thereof.

**3492. Power of railroads to condemn for depots, freight yards, team tracks, etc.**—Railroads or railroad companies operating in this State may acquire by con-

demnation proceedings, in the mode prescribed by law, lands for depots, freight yards and team tracks, but no condemnation proceedings shall be begun for either of said purposes until an application for permission to bring such condemnation proceeding has first been submitted to, and the same approved by, the railroad commission of Alabama. And should such lands not be used for the purposes of such condemnation within one year from the date of their condemnation, or should such lands be abandoned for the use condemned, or be used for purposes not authorized by such condemnation, the same shall revert to the owner or owners, his or their heirs.

3493. *Railroads, mining corporations, etc., may enter on land to make survey, examinations for proposed lines, works, etc.*—Railroads, street railroads, and mining, manufacturing, power, and quarrying, telegraph and telephone, and other corporations having rights and powers to condemn may cause such examinations and surveys for their proposed railroads, or lines, as may be necessary to the selection of the most advantageous routes and sites, and for such purposes may, by their officers, agents, and servants, enter upon the lands and waters of any person, but subject to liability for all damages done thereto, and may, in the construction of their lines or sites, cross navigable streams, but must not impede the navigation thereof; may use, cross, or change public roads, when necessary, in the construction of their railways, switches, branches, lines, or buildings, and must place the public road so crossed, used, or changed, in condition satisfactory to the county authorities having the control thereof, but where practicable the railroads must go over or under the public roadway, or railroad track, and may also cross or intersect with any other railroad or street railway, and if such crossing or intersection cannot be made by contract or agreement, may acquire the rights thereto by condemnation in the mode provided by law.

3494. *Railroads to acquire and operate steamboats, etc.*—Railroad companies, and mining, manufacturing, and quarrying companies may contract, purchase, or

otherwise acquire, own, operate, and maintain, steam-boats, barges, ships, and other vessels for transportation of freight and passengers on the navigable waters of this State or any other State or foreign country and on the seas.

**3495. Right to convey franchises, rights, property, etc.**—Whenever all the capital stock of a railroad corporation formed under this chapter is owned by a railroad corporation chartered under the laws of this State or another State, such corporation may sell and convey to the corporation owning its stock all its franchises, rights, roadbed, and property, but the purchasing company, if a foreign corporation, shall keep an office in this State, and an agent thereat, and service of process upon such agent shall be service upon the purchasing company; and the railroad so purchased shall be in all respects subject to the laws of this State as if owned by a domestic corporation, and all liens and rights of creditors shall be preserved unimpaired.

**3496. Corporations may aid one another in construction as to connections and extensions of two or more corporations.**—Any railroad corporation, and any mining, manufacturing, or quarrying corporation, may at any time, by means of subscription to the capital stock of any other corporation or company, or otherwise, aid such corporation or company in the construction of its railroad for the purpose of forming a connection with the railroad, or the principal place of business or works of the corporation furnishing the aid.

**3497. A corporation may purchase, lease, hold, or use other corporate property.**—Any corporation may purchase at its judicial sale, or otherwise, hold and use or lease any part or all of the railroad constructed by another corporation or company, together with its franchises, rights, and property, or may acquire, hold, and use all or any part of the capital stock of another corporation chartered under the laws of this State or any other State, if the railroad or railroads so purchased connected with, or will, when completed, connect with the railroad works, factory, or plant of the purchasing

or leasing corporation, either directly or by means of an intervening line; or any two or more such companies whose lines are or will be, so connected, may enter into any arrangement for their common benefit, consistent with and calculated to promote the objects for which they were created.

3498. *Stockholders at meeting called by directors must assent to such aid, purchase, lease, etc.*—But no such aid shall be furnished, nor any such purchase, lease, or arrangement perfected as in the preceding sections mentioned, until a meeting of the stockholders of each of such corporations has been called by the directors thereof at such time and place and in such manner as they shall designate, and the holders of the larger amount in value of the stock of each of such corporations represented, and by voting at meeting, in person or by proxy, shall have assented thereto, and copies of the proceedings of such meetings certified by the president, or other managing head of such corporations, under the corporate seal, shall be filed in the office of the secretary of State.

3499. *Proceedings to carry out extensions, connections, branch roads, etc.*—Railroad, mining, manufacturing, and quarrying companies may purchase, lease, or acquire in any other manner, hold and operate a railroad or railroads or canals without this State for the purpose of making extensions or connections, and within this State may extend their roads, or may construct and operate branch roads from any point or points on their lines. Such purchase must be made by resolution of the board of directors, which must be submitted to a meeting of the stockholders, called for the purpose of its consideration; at such meeting such resolution must be approved by the vote of the holders of the larger amount in value of the stock; and if such resolution be so approved, a copy thereof and of the proceedings of the meeting of the stockholders, certified by the president and the secretary, under the corporate seal, must be filed and recorded in the office of the secretary of State. Such extension or construction of such branch road must be made by resolution of the board of directors, to

be entered in the record of the proceedings of the corporation, designating the point from which and the point to which such extension or such branch road is to be constructed. A copy of such resolutions, certified by the president and secretary, under the corporate seal, must be filed in the office of the secretary of State, and, thereafter, for the purpose of making such extension or building such branch road, such corporation shall have all the rights, powers, and immunities which are now or may hereafter, by the laws of this State, be granted to and vested in railroad corporations under and by virtue of the general incorporation laws of this State.

3500. *Rights of way by mining corporation to make connections of their works with public highways, etc., acquired by condemnation, etc.*—Mining, manufacturing, and quarrying corporations may construct and operate to and from their mines, furnaces, mills, factories, quarries, or other works, railways, tramways, canals, tunnels, underground passages, or roads, whereby connections may be made to and from their principal places of business, their mines, furnaces, mills, quarries, or other works, and any public highway, turnpike, macadamized, plank, or other graded road or railroads or navigable waters, or to or with their mines, ore beds, coking or cooling grounds, or timber lands, or canals, or aqueducts, to or from their mills or factories, furnaces, or quarries, or other works, or any waters or water courses, and may transport as common carriers freight and passengers on any railroad or other roads, or any canals or aqueducts, constructed or purchased by them, taking reasonable compensation therefor.

3501. *Street railway, gas, and other companies may contract with cities, towns, etc., for use of streets, etc.*—Street railway, gas, electric, and water companies, and all other corporations except railroads, formed for the purpose of constructing, operating, or maintaining any works or internal improvement or public utility in any county, city, town, or village, may contract with the authorities of such city, town, or village, or county, in reference to the use of the streets, public roads, and other

public places therein, the manner of constructing and operating their lines of works, the public service they are to render, and the compensation they are to receive for the carriage of persons and property, or for water, gas, electric light, and power; or for any other commodity to be supplied, or service rendered to such county, city, town, or village, and the inhabitants thereof, which contract may be altered by mutual consent; but nothing herein shall prevent any cities or towns from regulating, from time to time, the use of the streets and public places, or requiring a change in the construction of the lines and works of such corporations if necessary, whenever the public good or convenience requires.

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## ARTICLE 6.

### **CONSOLIDATION AND MERGER. 3502-3508.**

#### **SECTION.**

- 3502. Corporations may consolidate or merge.
- 3503. Consolidation or merger of corporations, how effected.
- 3504. Powers, duties, and liabilities of.
- 3505. Rights, privileges, powers, franchises, and property vested in consolidated or merger corporations.
- 3506. Rights of creditors and liens preserved.
- 3507. Proceedings in case any stockholder dissents from merger.
- 3508. Authority of consolidated corporation to issue bonds, etc.

**3502. *Corporations may consolidate or merge.***—Any two or more corporations which are authorized to consolidate may merge or consolidate into a single corporation, which may be either one of the consolidated corporations or a new corporation to be formed by means of such merger or consolidation; in either event such corporation shall be effected in the manner following:

**3503. *Considerations or merger or corporations, how effected.***—The directors of the several corporations proposing to merge or consolidate may enter into joint agreement under the corporate seals of the respective corporations, prescribing the terms and conditions there-

of, the mode of carrying the same into effect, the name and principal place of business in this State of the new corporation (if one shall be formed or created) or of the consolidated corporation, as the case may be; the number, names, and postoffice addresses of the first directors and officers of the new consolidated corporation; the number of shares of the capital stock, both common and preferred, the par value of each share thereof, and the manner and terms of converting the capital stock of each of the merging or consolidating corporations into the stock or obligations of such new or consolidated corporation, and how and when the directors and officers of such new or consolidated corporation shall be chosen, together with all such other provisions or details as the directors of the several consolidating or merging corporations may deem necessary to perfect such merger or consolidation. The agreement shall then be submitted to the stockholders of each of the several consolidating corporations, separately, at a meeting to be called by the directors for the purpose of considering the same; at such meeting the said agreement of the directors shall be considered, and a vote of the stockholders of each corporation shall be taken separately for the adoption or rejection of the agreement, each share of stock entitling the holder to one vote. If the votes of the holders of two-thirds in value of the stock of each of the merging corporations, voting at said meetings in person or by proxy, be for the adoption of the agreement, the fact shall be certified by the secretaries of the respective corporations under the corporate seals, and the agreement so adopted shall be filed and recorded in the office of the secretary of State, and a copy of said agreement of merger or consolidation duly certified by the secretary of State shall be evidence of the existence of such new or consolidated corporation. Upon the filing of said agreement in the office of the secretary of State, the several corporations shall be one corporation by the name provided in said agreement.

3504. *Powers, duties and liabilities of.*—Consolidated or merger corporations shall possess all the rights, powers, and privileges, and be subject to all the restrictions, disabilities, and duties of each of the consolidat-

ing corporations, unless additional powers not inconsistent with the provisions of this chapter, are expressed in the said agreement and acts of consolidation, and unless the powers possessed by the several merging corporations are limited or restricted in said agreement.

*3505. Rights, privileges, powers, franchises, and property vested in consolidated or merger corporations.*—Upon the consummation of such merger or consolidation, all and singular, the rights, privileges, powers, franchises, and all property, real, personal, or mixed, and all debts due on any account as well as for stock subscriptions, and all other things in action belonging to each of the said several corporations, shall be vested in the consolidated corporation; and all property, rights, privileges, powers, and franchises, and all and every other interest shall thereafter be as effectually the property of the consolidated corporation as they were of the respective former corporations, and the title to any real estate by deed or otherwise under the laws of this State, vested in any of such respective former corporations shall vest in the new corporation, and shall not in any way be impaired by reason of such consolidation.

*3506. Rights of creditors and liens preserved.*—Rights of creditors and all liens upon the property of any of the said former corporations shall be preserved unimpaired, and the former corporations may be deemed to continue in existence in order to preserve the same; and all debts, liabilities, and duties of each of the said former corporations shall thenceforth attach to the consolidated corporation, and may be enforced against it to the same extent as if said debts, duties and liabilities had been incurred or contracted by it.

*3507. Proceedings in case any stockholder dissents from merger.*—Upon the merger or consolidation of two or more corporations into a single corporation as in this article provided, if any stockholder in any of the merging or consolidating corporations not voting in favor of the merger or consolidation, shall dissent therefrom and shall refuse or neglect to convert his stock into the stock

of the consolidated corporation, or dispose thereof in the manner and on the terms specified in the agreement of consolidation, such dissenting stockholder shall be paid the actual value of his stock, if he demands it, and may at any time within thirty days after the adoption and filing of such agreement of consolidation, or the new or consolidated corporation may, within such time, apply by petition to the court of probate of the county in which the chief office of the corporation whose stockholder shall so dissent or neglect, was or is situated, and the court, on reasonable notice to be prescribed by it, to the consolidated corporation or to the dissenting stockholder, as the case may be, shall appoint three disinterested appraisers to appraise the full market value of his stock; such appraisers shall take an oath to fairly and impartially appraise the full market value of such stock, without regard to any appreciation or depreciation thereof by reason of such consolidation, and shall within ten days make and return to the court their appraisement thereof; and such appraisement shall not be confirmed by the court until the expiration of ten days from the day it is returned into court. If no contest of the appraisement is filed by either party within ten days from the return thereof into court, or if, upon hearing any such contest, the court is satisfied that the appraisement is the full market value of the stock of such dissenting stockholder, the court must enter an order confirming said appraisement, and such confirmation shall be final and conclusive on all parties unless an appeal is taken within ten days to the circuit court of such county or other court exercising like jurisdiction. Upon the filing of the notice of appeal by either party with the judge of such probate court, within said period, such judge must certify all proceedings and the appraisement to such circuit court or other court exercising like jurisdiction, and in such court an issue must be made up under the direction of the court, and the cause tried as other causes are tried in such court. If no such appeal is taken, and the value of his stock so ascertained be not paid to the dissenting stockholder within thirty days from the confirmation of said appraisement, the order confirming the same shall be a judgment for the amount thereof against the consolidated corporation,

and may be collected as other judgments of said court are collectible by law. The probate court may, if it be satisfied that the appraisement is not the true market value of the said stock, set aside the appraisement and enter an order for the amount which the evidence satisfies it is the true value thereof, in which event the rights and liabilities of the parties shall be in all respects the same as in case of a confirmation of the appraisement, and the rights of the creditors of the several former corporations in and upon the assets and property formerly owned by the respective corporations shall not be impaired or affected by the award or judgment obtained by such dissenting stockholder thereunder.

3508. *Authority of consolidated corporation to issue bonds, etc.*—Such consolidated corporation shall have power and authority to issue bonds or other obligations to an amount sufficient with its capital stock to provide for all payments it will be required to make, or obligations it will be required to assume, in order to effect such merger and consolidation, and to secure the payment of such bonds or obligations it shall be lawful to mortgage its corporate franchises, rights, privileges, and property, real and personal; and may issue capital stock, common or preferred, or both, to such amount as shall be necessary, to the stockholders of the consolidated corporation in exchange or payment for their original shares, in the manner and on the terms specified in the consolidation agreement.

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## ARTICLE 7.

### ASSETS OF INSOLVENT CORPORATIONS. 3509.

3509. *Marshalling assets of insolvent corporations.*—The assets of insolvent corporations constitute a trust fund for the payment of the creditors of such corporations, which may be marshalled and administered in courts of equity in this State.

**ARTICLE 8.****DISSOLUTION AND FORFEITURE OF FRANCHISE. 3510-3517.****SECTION.**

- 3510. How to dissolve a corporation.
- 3511. Proceedings when a majority of stockholders object to dissolution.
- 3512. Dissolution in case of the insolvency of a corporation.
- 3513. Forfeiture of franchise of quasi public corporation.
- 3514. Appeals from proceedings to forfeit or dissolve corporations.
- 3515. Forfeiture of franchise by non-user for five years.
- 3516. Exist for five years after dissolution by limitation or forfeiture for certain purposes.
- 3517. No conflict with other laws in force.

3510. *How to dissolve a corporation.*—Whenever the holders of all the capital stock of any corporation shall desire to dissolve the corporation, they may do so by an agreement to that end signed by all the stockholders, and acknowledged or proved by the president of the corporation, as in case of deed of real estate, and filed and recorded in the office of the probate judge of the county where the corporation was organized, which shall be published, together with the certificate of such probate judge that such agreement has been filed, in a newspaper published in the principal place of business of the corporation for four consecutive weeks; and upon the filing of an affidavit in the office of such probate judge that such publication has been made, the corporation shall be dissolved, and the board of directors shall proceed to settle up and adjust its business and affairs.

3511. *Proceedings when a majority of stockholders object to dissolution.*—Whenever the stockholders holding two-thirds in value of the capital stock of a corporation wish to dissolve the corporation, and cannot obtain the consent of all the stockholders thereto, so that a dissolution may be had as provided in the preceding section, they may file a petition in the chancery court of the division where the principal place of business of the corporation is located, or in any court of such place having the jurisdiction of chancery court, setting forth the

names of all the stockholders and their residences, the amount of stock owned by each, and, as nearly as practicable, all the property, real and personal, owned by the corporation, and that it is the wish of the petitioners to dissolve the corporation. Upon the filing of such petition, the register or clerk of such court shall issue subpoenas to all the resident stockholders not joining in the petition, and if any stockholders not joining in the petition reside out of the State, they shall be made parties by publication in the manner nonresident defendants in chancery are made parties, and all such stockholders have thirty days after the perfecting of such service by subpoena or publication to file their answers to such petition. If at a regular term of such court, the cause being at issue, it be made to appear to the court upon proof taken as in chancery cases, that the holders of two-thirds in value of the capital stock still desire dissolution, the court shall dissolve the corporation by decree, and the chancellor or judge of the court, or in his absence, the clerk or register, shall appoint a receiver of all the books, property, and assets of the corporation, who shall be the person nominated for such purpose by a majority of the stockholders, if they can agree within ten days after the decree of dissolution. Such receiver shall give bond in an amount to be prescribed by the chancellor or judge or register or clerk of such court, with proper sureties and payable to the register or clerk for the faithful performance of his duties, and shall, under the direction of the court, collect all debts due the corporation, and sell all the property, real and personal, of the corporation, pay the debts thereof ratably or in full as the funds realized may admit, and divide the residue after the debts and costs are paid, among the several classes of stockholders, according to the amount owned by each, and according to the preferences, if any, of the several classes as provided in the certificates of incorporation. Claims against the corporation may be contested and determined as in other chancery cases.

3512. *Dissolution in case of the insolvency of a corporation.*—Whenever any corporation shall become insolvent, or shall suspend its ordinary business for the lack of funds to carry on the same, any creditors or

stockholders, or any number of creditors or stockholders, may by bill or petition apply to the chancery court of the division in which the corporation has its principal place of business, or to any court in such place possessing chancery jurisdiction, for a writ of injunction and appointment of a receiver, and the dissolution of the corporation, and may file affidavits in support of such bill or petition, and the court being satisfied from affidavits submitted, or other proof, of the sufficiency of the application and the truth of the allegations in the bill or petition contained, and after such notice to the corporation, if any, as the court may prescribe, may proceed to hear the proof which may be offered by the parties, and if, upon such hearing, it appear to the court that the corporation has become insolvent, and is not about to resume its business in a short time thereafter with safety to the public and advantage to the stockholders, it may issue an injunction to restrain the corporation, its officers and agents, from exercising any of its privileges or franchises, and from collecting and receiving any debts or paying out, assigning, or transferring any of its moneys, funds, estates, lands, tenements, or effects, except as to a receiver appointed by the court, until the court shall otherwise order. The court at the time of ordering the injunction, or any time thereafter, may appoint a receiver of all the property and assets of the corporation, who shall qualify and give bond in a sum to be fixed by the court, judge, or chancellor, conditioned to faithfully discharge his duties as such receiver, and under the direction of the court, must exercise the same powers and perform the same duties as are required of receivers in the next preceding section, and otherwise manage the affairs of the corporation pending final settlement thereof as the court shall direct. Upon the final settlement of the affairs of the corporation, the court must dissolve the corporation by decree, unless prior thereto, the debts having been paid or provided for, and sufficient funds provided for the resumption of business with safety to the public and advantage to the stockholders, the court, on motion of the persons holding the larger amount in value of the capital stock, shall have dismissed the bill or petition and restored the corporation to its property, rights, and franchises.

**3513. *Forfeiture of franchise of quasi public corporations.***—Whenever any corporation operating or maintaining any public utility and having enjoyed franchises under contract with any city, town, or other municipal subdivision to render any public or quasi public service to such city, or other subdivision, or the inhabitants thereof, shall fail, after reasonable notice of default in the performance of such contract, to comply with and perform the same in the manner provided in such contract, the governing body of such city, town, or other subdivision, may by bill or petition apply to the chancery court or other court of like jurisdiction of the county in which such city, town, or other subdivision is situated, to enforce the forfeiture of the rights and franchises and annul the charter of the corporation. If upon the hearing of the cause the court shall find that the corporation has so failed or refused to perform its said contract, either willfully or by reason of lack of means to do so, it shall enter a decree ordering such corporation within a time to be named in said decree, to comply with its contract in the respect where it is in default, which time, for good cause shown, the court may extend. If within the time fixed in the decree, or in the order extending the time, it be made to appear to the court that the decree has been complied with, the court shall enter a decree dismissing the proceedings upon the payment of all the costs by the corporation; but if it appear at the expiration of such time that the corporation has failed to comply with the order of the court, the court shall declare the franchise of the corporation forfeited, and dissolve the corporation.

**3514. *Appeals from proceedings to forfeit or dissolve corporations.***—Appeals may be taken by any of the parties in the proceedings authorized in the three next preceding sections, and issues of fact, tried as in other chancery cases.

**3515. *Forfeiture of franchise by nonuser for five years.***—The nonuser of corporate franchises for a period of five consecutive years is a forfeiture of such franchise.

*3516. Exist for five years after dissolution by limitation or forfeiture for certain purposes.*—Corporations whose charters expire by limitation and which are dissolved by forfeiture or by any other cause, except by judicial decree, exist as bodies corporate for the term of five years after such dissolution, for the purpose of prosecuting or defending suits, settling their business, disposing of their property, and dividing their capital stock, but not for the purpose of continuing their business; and the directors shall be trustees thereof with full power to settle their affairs, collect their debts, sell and convey the property and divide the moneys and other property among the stockholders, after paying its debts; and may act under the by-laws of the corporation, prescribe the terms and conditions of the sales of the property of the corporation, sue for and recover the debts and property of the dissolved corporation, in the corporate name; and are jointly and severally liable to its creditors and stockholders to the extent of the property which may come into their hands. On application to the chancellor or judge or other court at the principal place of business of the corporation, such trustees may be continued for such length of time beyond such five years as may be necessary for the purpose in this section set forth.

*3517. No conflict with other laws in force.*—Nothing in this article or the seven preceding articles shall be construed so as to add to, take from, or to repeal, modify, or otherwise affect any of the provisions of article 13 (3), chapter 69 (28), of this Code, or any existing provisions of law relating to mutual associations, or to repeal, modify, or otherwise affect the provisions of article 17 (4), of chapter 69 (28), of this Code, or to repeal, modify, or otherwise affect any of the provisions of chapter 99 (63) of this Code, relating to the business of insurance corporations.

## ARTICLE 9.

GENERAL PROVISIONS AS TO BANKS AND BANKING. 3518-3527.

## SECTION.

- 3518. Powers of banking and trust companies.
- 3519. Special certificate of deposit.
- 3520. Banking; rights of married women and minors.
- 3521. Specie basis.
- 3522. Bills, bonds, etc., of banks; how redeemed.
- 3523. Authority of state treasurer to sell bonds.
- 3524. Banking corporations exclusive.
- 3525. How foreign bank must exercise privilege of banking.
- 3526. Notes and bills void.
- 3527. Counterfeits may be defaced.

**3518. Powers of banking and trust companies.**—Corporations formed for the purpose of carrying on the business of banking and trust companies doing a banking business, may discount bills, notes, or other evidences of debt, receive and pay out deposits, with or without interest, receive on special deposit money, bullion, or foreign coins, or stocks, bonds, or other securities; buy and sell foreign and domestic exchanges, gold and silver bullion or foreign coins, bonds, stocks, bills of exchange, notes, and other negotiable paper; lend money on personal security or upon pledges of bonds, stocks, or other negotiable securities; take and receive security by mortgage or otherwise on property, real and personal, issue bills to circulate as money, but only as, and upon the terms prescribed in section 248 of the constitution, and may become trustees for any purpose, be appointed and act as executors, administrators, guardians, and receivers, and do any business and exercise any powers incident to the business of trust and banking companies doing banking business.

**3519. Special certificate of deposit.**—No certificate of deposit, issued by a banking corporation or trust company for any special deposit for which interest is to be paid, must be reissued, but, on the return thereof, must be cancelled.

3520. *Banking; rights of married women and minors.*—A married woman or minor may make in her or his own name, a deposit in any bank, and such deposits may be general or special, and shall be paid only to such married woman or minor, or upon her or his order, and not to the parents or guardians of such married woman or minor, and such payment shall be valid as against the married woman, her husband, and against the minor child, his parent or guardian.

3521. *Specie basis.*—No bank shall be established otherwise than upon a specie basis; provided, that any bank may deposit with the State treasurer bonds of this State or the United States convertible into specie at their face value, and upon so doing, and the filing by the State treasurer of the certificate in the office of the secretary of State, showing the fact of deposit of such bonds, and the amount thereof, the secretary of State shall certify to such bank that it has authority to issue bills in an amount equal to the face value of said bonds, and thereupon such bank may issue bills to such amount.

3522. *Bills, bonds, etc., of banks; how redeemed.*—If any such bonds so deposited are redeemed before such bank goes out of business, and before the bills issued by it are all redeemed, the State treasurer shall require such bonds to be paid in specie, and shall hold the amount realized therefrom for the redemption of the bills issued by such bank, unless the bank shall deposit a sufficient amount of like bonds to make the face value of all such bonds in deposit with him by such bank equal in amount to the bills so issued by the bank.

3523. *Authority of State treasurer to sell bonds.*—Upon the deposit of bonds as provided in the preceding section, such bank shall deposit with the State treasurer an instrument in writing duly acknowledged by the president or cashier of the bank, before an officer authorized by law to certify acknowledgments, authorizing and empowering the State treasurer, and his successors in office, to sell such bonds, at any time and without notice or delay for a sufficient amount of specie to redeem all the circulating notes of the bank, if such

bank suspends specie payment or fails to redeem its notes on demand; and in case such bank shall suspend specie payment or fail to redeem its notes on demand, the treasurer thereof shall so sell said bonds for specie without delay, and hold the proceeds thereof for redemption of such bills when so presented, which bills he shall destroy immediately upon payment and shall notify the attorney-general of such fact, and the attorney-general shall thereupon cause the solicitor who prosecutes for the State, with such assistance as he deems necessary to employ, to institute proceedings in chancery court to dissolve and wind up the business of such bank, the compensation of any assistants to the solicitor to be allowed by the court out of the assets of the bank.

3524. *Banking corporations exclusive.*—No corporation other than corporations formed for the purpose of carrying on the business of banking, or trust companies doing a banking business, shall engage in or carry on the business of banking in this State.

3525. (1096) (1196) (1429) (1176) (939) *How foreign banks must exercise privilege of banking.*—No foreign corporation invested with the privilege of banking must exercise the same by agent in this State, except by the exclusive use of gold and silver coin, and national bank notes, or other currency of the United States.

3526. (1097) (1197) (1430) (1178) (941) *Notes and bills void.*—If any corporation, or agent, violates the provisions of this article, or attempts to evade the same in the discount of any bill or note, such bill or note is void.

3527. (1098) (1198) (1431) (1179) *Counterfeits may be defaced.*—Any person may deface, by crossing with ink or otherwise, any bank note that may be presented to him in payment of debts, or to be changed or exchanged, if the same is counterfeit; but should it be found, on a more careful examination, that a bank note so defaced is a genuine note, the person defacing such note shall, if required by the holder, redeem the same,

and if he fails or refuses, on application being made for that purpose, he may be sued for the amount thereof before any court having jurisdiction.

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## ARTICLE 10.

### TRUST COMPANIES, REGULATION OF. 3528-3537.

#### SECTION.

- 3528. Trust companies amenable to banking laws.
- 3529. Capital stock of trust companies graduated according to population.
- 3530. Use of the word "trust" as part of corporate name of companies; penalty for violation.
- 3531. Deposit of bonds with State treasurer as securities for carrying on trust companies.
- 3532. Liabilities which are claims against bonds deposited as securities.
- 3533. Sale of bonds and securities in satisfaction of liabilities.
- 3534. How exempt from giving bond or further securities by trust companies.
- 3535. Withdrawal of bonds or securities from deposit.
- 3536. Banks which are exempt from provisions of article.
- 3537. Interest on bonds or securities deposited payable to trust company.

*3528. Trust companies amenable to banking laws.*—All corporations organized and operating as trust companies shall have the word "trust" as part of their corporate names, shall be amenable to the general banking laws of the State in so far as said laws are applicable to trust companies and not in conflict with the provisions of this article, and shall be examined by the State bank examiner as State banks are examined.

*3529. Capital stock of trust companies graduated according to population.*—Trust companies in cities of five thousand inhabitants or less shall have a paid-up capital of not less than twenty-five thousand dollars; in cities having from five thousand to thirty thousand inhabitants, not less than seventy-five thousand dollars; and

in cities having over thirty thousand inhabitants, not less than one hundred thousand dollars. The next preceding federal census shall be the standard of population from time to time. Trust companies now existing whose capital is not up to the requirements of this section shall have one year from the adoption of this Code in which to conform to the provisions of this section; and as cities pass from one class to another according to changes of population, trust companies whose paid-up capital has, by the growth of population ceased to be up to the requirements of this article, shall have one year from the date at which the population of the cities involved is made public in which to conform to the provisions of this section.

*3530. Use of the word "trust" as part of corporate name of companies; penalty for violation.*—No corporation which is not organized and operating as a trust company or as a bank or as a combined bank and trust company, and which has not complied with the requirements of the two preceding sections of this article shall use the word "trust" as a part of its corporate name; and no such corporation shall use the word "trust" in connection with the business of said corporation with intent to give the impression that such corporation is organized and operating as a trust company in accordance with the provisions of the first two sections of this article. All corporations now using the word "trust" in contravention of the foregoing provisions of this section shall have six months from the adoption of this Code within which to comply with its provisions. Any corporation violating any of the provisions of this section shall thereby make void the organization of such corporation, and its stockholders shall thereupon become liable as partners. No limited partnership or other partnership shall use the word "trust" as part of its name.

*3531. Deposits of bonds with State treasurer as securities for carrying on trust company.*—Any corporation organized and operating as a trust company may deposit with the State treasurer United States bonds, Alabama bonds, bonds of any city or county in the State of Ala-

bama, or mortgages which are first liens on improved real estate, worth in each case double the face of the mortgage, situated in some incorporated city of this State having a population according to the next preceding federal census of not less than five thousand inhabitants, to an amount not less than twenty-five thousand dollars, and may increase said deposit from time to time, or reduce the same to an amount not less than twenty-five thousand dollars, or may withdraw the deposit entirely. The treasurer shall decline to receive any bonds or other securities of a market value less than par; and may in his discretion decline to receive any bonds or other securities that he considers unsafe or unsuitable for the purpose.

*3532. Liabilities which are claims against bonds deposited as securities.*—The State treasurer shall, from time to time, furnish the company making such deposit with a proper certificate showing the fact of the deposit and containing an exact description of the bonds or other securities deposited. Such deposit is to secure the payment of all liabilities of the company making the deposit as guardian, administrator, executor, receiver, or trustee under appointment of any court of this State where the company has claimed exemption from giving bond by reason of having this deposit; and all such liabilities shall constitute a first claim on said bonds or other securities deposited as against all other liabilities of said company.

*3533. Sale of bonds and securities in satisfaction of liabilities.*—When any person, firm, or corporation has established by final proceedings at law or in equity a claim against said company to secure which said bonds or other securities were deposited, and said claim is not paid within thirty days by said company, the State treasurer shall proceed forthwith to sell a sufficient number of said bonds to pay the judgment against said company and pay said judgment by paying the amount to the proper official of the court wherein said judgment exists.

*3534. How exempt from giving bond or further securities by trust companies.*—Any trust company which is authorized by law to act as guardian, administrator, executor, receiver, or trustee, under appointment of any court of this State, and which maintains the deposit provided for in the preceding section, shall be entitled as a matter of right to exemption from giving bond before receiving authority to act in any of the above capacities, provided its aggregate liabilities to secure which said bonds or other securities are deposited do not exceed five times the par value of said bonds. When such company desires exemption from giving any such bond it shall file with the officer who would otherwise require such bond a sworn statement showing the amount in value of the bonds or other securities on deposit with the State treasurer, and that the liabilities of the company protected by such deposit do not exceed five times the par value of said bonds or other securities.

*3535. Withdrawal of bonds or securities from deposit.*—All trust companies organized under general or special laws of this State, which are now required by their charters to keep on deposit with trustees any bonds, stocks, or other securities to be held subject to the payment of any judgment or decree which may be rendered against said companies, may, upon making a deposit of securities in accordance with the provisions of section 3531 of this article, withdraw from the custody of said trustees said bonds, stocks, or other securities so deposited with said trustees; and shall not thereafter be required to maintain any such deposit with trustees, any provisions of the charter of said companies to the contrary notwithstanding.

*3536. Banks which are exempt from provisions of article.*—This article shall not be applicable to banks which are by the terms of their charter also authorized to do a trust company business so long as such banks do not in fact do a trust company business.

*3537. Interest on bonds or securities deposited payable to trust company.*—The interest falling due from time to time on bonds or other securities on deposit with

the State treasurer in accordance with section 3531 of this article shall be payable to the corporation depositing such bonds or other securities, and the State treasurer may send to such corporation, a reasonable time before each interest period the coupons or interest note representing the interest to become due at such interest period.

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## ARTICLE 11.

### EXAMINATION AND REGULATION OF BANKS. 3538-3561.

#### SECTION.

- 3538. Reports from state and private banks.
- 3539. Contents and publication of report.
- 3540. Special reports called for.
- 3541. Penalty for failure to furnish report.
- 3542. Capital required.
- 3543. Minimum cash on hand.
- 3544. As to reserve fund.
- 3545. Penalty for failure to make good the reserve fund.
- 3546. Loans prohibited to officers or agents of banks.
- 3547. Limit of loans to ten per cent of capital stock.
- 3548. When capital is impaired.
- 3549. Bank examiner; appointment, qualifications, salary, term of office, removal.
- 3550. Oath of office and bond of bank examiner.
- 3551. Commission or fees.
- 3552. Duties and powers.
- 3553. Information not disclosed.
- 3554. Names of depositors not disclosed.
- 3555. Penalty for disclosing depositors.
- 3556. Salary and expenses of examiner.
- 3557. Shall make annual report.
- 3558. Treasurer shall record report.
- 3559. Reports may be printed.
- 3560. Proceedings when bank found not solvent.
- 3651. Scope of this article.

*3538. Reports from State and private banks.*—All banks, persons, firms, and corporations doing a banking

business, in this State, shall make to the State treasurer not less than two reports during each year, according to the form which may be prescribed by him, verified by an oath or affirmation of the executive officer or agent thereof, and in case of corporations by the president or cashier or secretary, attested by the signature of at least three of the directors.

3539. *Contents and publication of report.*—Each report shall exhibit in detail and under appropriate heads the resources and liabilities of each bank at the close of business on any past day specified by the treasurer not more than three days prior to the issue of the treasurer's call, which day for reports shall be uniform throughout the State, and shall be transmitted to the treasurer within five days after the receipt of a request or requisition therefor from him, and the same shall be published once in a newspaper in the city or county in which the bank is located, at the expense of the said bank; proof of such publication shall be furnished by said bank to the treasurer as may be required by him.

3540. *Special reports called for.*—The treasurer may call for special reports from any particular bank, whenever, in his judgment, the same are necessary in order to a full and complete knowledge of the condition of such bank.

3541. *Penalty for failure to furnish report.*—Any bank failing to furnish a report, when requested by the treasurer, as specified in the foregoing section, without satisfactory reasons shown to the State treasurer, shall forfeit fifty dollars to the State for each violation, to be recovered of such defaulting bank in such manner as is now directed by law for the collection of moneys due the State.

3542. *Capital required.*—No bank doing business in this State shall have a capital of less than twenty-five thousand dollars actually paid and employed in the business, in towns of more than twenty-five hundred inhabitants, nor less than fifteen thousand dollars in towns of less than twenty-five hundred inhabitants.

3543. *Minimum cash on hand.*—No bank, person, firm, or corporation doing a banking business shall be allowed to reduce cash on hand below fifteen per cent of demand deposits, providing that three-fifths of said fifteen per cent may consist of the balance due by banks and bankers to said bank.

3544. *As to reserve fund.*—Whenever it shall appear to the treasurer that any bank has permitted its reserve fund to fall below the amount prescribed in the foregoing section, the treasurer shall at once notify such bank to make good such reserve.

3545. *Penalty for failure to make good the reserve fund.*—If any bank shall fail for thirty days after notice to make good such reserve, it shall forfeit to the State twenty-five dollars for each day in excess of the said thirty days, to be collected by the State in a manner allowed by law for the collection of moneys due the State.

3546. *Loans prohibited to officers or agents of banks.*—No bank, person, firm, or corporation doing a banking business shall lend to any salaried officer, agent, or employe of the bank without good security.

3547. *Limit of loans to ten per cent of capital stock.*—No bank, person, firm, or corporation doing a banking business shall be allowed to lend to any one person, firm, or corporation, unless such loan is amply secured by good collateral, or shall be approved by a majority of its board of directors, more than ten per cent of its capital stock, surplus and undivided profits.

3548. *When capital is impaired.*—Whenever, by reason of losses, a bank's capital is impaired, the shrinkage in said capital represented by said losses shall be charged on the books of said bank to profit and loss, so that the notes and bills discounted and loans made, shown as debts due the bank, shall be live and collectible assets of said banks.

3549. *Bank examiner, appointment, qualifications, salary, term of office, removal.*—The governor of the

State shall appoint a State bank examiner, who shall be a competent and experienced accountant, and not interested directly or indirectly in any national bank, shall not be an officer, agent, or employe of any bank in this State, State or national, and he shall not be a shareholder or owner of any pecuniary interest in any bank subject to the provisions of this chapter, or in any national bank. He shall receive a salary of two thousand dollars per annum and actual traveling expenses. His term of office shall be the same as that of the treasurer, and he shall be subject to removal for cause by the governor.

3550. *Oath of office and bond of bank examiner.*—The bank examiner, before entering upon the duties of his office, shall take and subscribe the oath of office prescribed by the constitution, which shall be filed in the office of the secretary of State, and he shall give bond in the sum of fifteen thousand dollars, which bond shall be approved of the State auditor, payable, conditioned, and with legal effect as prescribed by the provision of section 1500 (3087) of this Code, relating to official bonds. Such bond shall be filed and recorded in the office of the secretary of State.

3551. *Commissions or fees.*—An examiner shall not be allowed to receive any commission, fees, or reward to himself from any officer, agent, or employe of any bank State or national, doing business in this State.

3552. *Duties and powers.*—The bank examiner shall visit every bank and corporation chartered by the laws of this State and doing a banking business, at least once, and twice in each year if it shall be practicable for him so to do. He shall not visit at stated times, nor shall he permit any one to know at what time he will visit such banks or corporations. He shall carefully and thoroughly examine into the affairs of every bank, and make a report to the treasurer immediately. He shall cover in said report all the subject-matter that the law requires banks to report upon, and upon such other subjects necessary for the protection of depositors, creditors, and stockholders thereof, as may be required of him

by the State treasurer. In addition to such visits, the State treasurer may require him to visit any such bank at any time when, in the treasurer's opinion, the public interest demands. He shall have power to make a thorough examination into all the affairs of the bank, or corporation chartered under the laws of this State and doing a banking business, and in doing so to examine any of the officers and agents thereof on oath.

3553. *Information not disclosed.*—The information which shall be obtained by the bank examiner under the provisions of this article shall be for the purpose of ascertaining the true condition of the affairs of said banks, and shall not be disclosed by him to any person other than the State treasurer.

3554. *Names of depositors not disclosed.*—It shall be unlawful for the bank examiner to make or report any list of the names of the depositors in any bank, or to disclose to any one information as to who are depositors, or the amounts of the several deposits.

3555. *Penalty for disclosing depositors.*—The bank examiner making or reporting such list of names of depositors of bank or disclosing such information, shall be guilty of a misdemeanor, and be punishable by a fine of not exceeding one thousand dollars, and shall also be liable to the person, firm, or corporation whose affairs are so disclosed in the penal sum of one thousand dollars, which sum shall be recoverable against the bank examiner and the sureties on his official bond in any court having jurisdiction.

3556. *Salary and expenses of examiner.*—The salary and necessary traveling expenses of the bank examiner shall be itemized and verified by affidavit, and shall be audited by the State auditor, and paid monthly by warrant drawn by the auditor on the treasurer in favor of said bank examiner.

3557. *Shall make annual report.*—The State bank examiner shall make from his reports during the year, an

annual report, which shall be published by the State treasurer as a part of his annual report to the governor.

3558. *Treasurer shall record report.*—The treasurer shall also procure a well-bound book in which he shall record such report made to the governor, and also his annual report; which book shall remain in the office of the treasurer and be subject at all times to the inspection of the public.

3559. *Reports may be printed.*—If any annual report of the State bank examiner is deemed of sufficient importance to the public by the governor, he may require the same published one time in one or more of the leading daily papers of the State.

3560. *Proceedings when bank found not solvent.*—Whenever the treasurer finds that a bank or corporation chartered by the laws of this State and doing a banking business, is not in a solvent condition, he shall immediately report the condition of the bank to the governor, and the governor shall direct the attorney-general to institute proceedings in a court having jurisdiction in the county where the bank or parent bank is located, to put the bank in the hands of some competent person, who shall give bond in an amount to be fixed by the judge for the faithful discharge of his duties, and said person so appointed shall immediately take charge of the business of said bank, collecting its assets and paying off its liabilities under the law and rules of such court.

3561. *Scope of this article.*—The provisions of this article shall apply to all banks, except national banks, and to all trust companies and individuals doing a banking business, whether incorporated or not.

## ARTICLE 12.

INSURANCE COMPANIES. 3562, 3563.

## SECTION.

3562. Insurance corporations may adopt mutual plan.

3563. Insurance companies must have cash capital of one hundred thousand dollars.

*3562. Insurance corporations may adopt mutual plan.*—Corporations organized for the purpose of carrying on the business of insurance in any of its forms may adopt the mutual plan or principle of allowing policy holders, or parties insured, to participate in the profits, or, having adopted such plan or principle may abandon it by the consent of the holders of the larger amount in value of the capital stock, at a meeting called for that purpose, if, at such meeting, the holders of the larger amount in value of the capital stock vote for the adoption or abandonment of the mutual plan or principle; they may also vote such change in the name of the corporation as they may deem desirable. The proceedings of such meeting must be reduced to writing and entered on the minute book of the corporation, and a copy thereof verified by the certificate of the president or the secretary under the corporate seal, must be filed and recorded in the office of the secretary of State, and thereafter the corporation must conduct its business according to such vote and by the name adopted.

*3563. Insurance companies must have cash capital of one hundred thousand dollars.*—All insurance corporations must have an actual capital fully paid up in cash, of not less than one hundred thousand dollars, no portion of which must be represented by stocks, notes, or loans on the stock of the company or companies as collateral; and must make annual sworn statements to the insurance commissioner of the assets, condition, business of the previous year, in premiums, losses, and expenses, in the State and as a whole.

## ARTICLE 13.

MUTUAL AID ASSOCIATIONS. 3564-3573.

## SECTION.

- 3564. What are mutual aid, benefit, and industrial companies or associations; requirements.
- 3565. Report to insurance commissioner.
- 3566. Municipal license tax limited.
- 3567. What companies not licensed.
- 3568. Company issuing policies without license enjoined; penalty for.
- 3569. Principal office and service of process; insurance commissioner's license.
- 3570. Visitation and examination.
- 3571. Life insurance companies; Masons and like orders not affected.
- 3572. Exemptions.
- 3573. Single tax or co-operative associations or corporations; organization and regulation of.

3564. (1116) (1547) *What are mutual aid, benefit, and industrial companies or associations; requirements.*

—All companies or associations, whether voluntary or incorporated under the laws of this State or any other State, doing in this State a business limited to the issuing of certificates or policies to, or agreeing with their members or policy holders upon the birth or death of any child, upon marriage, death, sickness, or upon any physical disability of such member or policy holder, to pay money or render aid to him or to others dependent upon him or beneficiary designated by him, which money or aid is derived from donations or from fees, dues, and assessments, are mutual aid, benefit, or industrial companies or associations. Such associations or companies shall not be authorized to transact business in this State until they have first submitted their charter, constitution, by-laws, and certificates of membership, or policy, to the insurance commissioner, and have at all times not less than five hundred bona fide members or policy holders, and at least one thousand dollars paid in as a benefit fund for the use of its members or policy holders. Such benefit fund must either be paid in cash or in bonds

of either the United States, the State of Alabama, or of a county or municipality of said State of the face and market value of one thousand dollars. Such benefit fund shall be kept on deposit with the insurance commissioner of Alabama, and kept by him as an indemnity fund for the benefit of its members or policy holders in this State. Provided, however, that any such company or association making such deposit shall be entitled to the income thereof, and may, from time to time, with the consent of the insurance commissioner, change in whole or in part the securities which compose the deposit for other competent securities of equal value.

3565. (1117) (1548) *Report to insurance commissioner.*—Every such company or association shall, on or before the first day of March of each year, file with the commissioner of insurance a report of its operations during the preceding calendar year, including the number of existing members or policy holders, the number who have become members or policy holders during such year, the total receipts and expenditures itemized. This report shall be upon blank forms provided by the insurance commissioner, and shall be verified by the affidavit of the president and secretary of the company or association; which report shall be published as are other reports of the insurance commissioner in his report to the governor. A tax of one per cent on net premiums received in this State after February 28, 1903, during the calendar year preceding, meaning gross premiums, less return premiums, and twenty dollars license fee, shall be paid by each company or association when report is filed and before license shall be granted to transact business in this State, provided that any company or association paying to the State a tax on its property or shares, if incorporated, may deduct the same from this tax.

3566. *Municipal license tax limited.*—No city, town, village, or other municipality, shall charge a license fee in excess of one-half of that charged by the State.

3567. *What companies not licensed.*—Any company or association failing or refusing to make the report and

payment as required by this article, shall not be licensed by the insurance commissioner.

3568. *Company issuing policies without license enjoined; penalty for.*—Any company or association issuing certificates or policies without such license may be enjoined by the insurance commissioner or any citizen in a court of competent jurisdiction from issuing certificates or policies, and upon the permanent granting of such injunction each officer and agent of such company or association shall be fined by the court granting the injunction not less than ten dollars nor more than one hundred dollars, or may be imprisoned not less than ten days nor more than one hundred days, for each certificate or policy thus issued.

3569. (1118) (1549) *Principal officer and service of process; insurance commissioner's license.*—Every such company or association, before commencing business in this State, shall, by a duly executed instrument filed in the office of the insurance commissioner, designate some place as the principal office of such company or association in the State, and constitute and appoint the insurance commissioner, or his successor, its true and lawful attorney, upon whom all lawful process in action or legal proceedings against it may be served; and the company or association shall agree that any lawful process against it which may be served upon its said attorney shall be of the same force and validity as if served on the company or association, and that the authority thereof shall continue in force irrevocably as long as any liability remains outstanding against it in this State. Any process issued by any court of record in this State, and served upon such commissioner by the proper officer of the county in which said commissioner may have his office, shall be deemed a sufficient process on said company; and the insurance commissioner, promptly after such service of process by any claimant, shall forward by registered mail an exact copy of such notice to the company or association. Notice of any change of office shall be filed with the insurance commissioner within thirty days thereafter. Upon failure to comply with any of the provisions of this section, the company or associa-

tion shall cease to do business in this State until compliance therewith. No such company or association shall commence to do business in this State until it has received from the insurance commissioner a license, a record whereof shall remain on file in the insurance commissioner's office.

3570. (1119) (1550) *Visitation and examination.*—Every such company or association shall be subject to visitation, and its books and papers to inspection, by the insurance commissioner, his deputy, or such person as he may designate; and the actual expense of such examination shall be paid by the company or association. In no case shall the insurance commissioner or his deputy, or such person as he may designate, charge for the time not actually taken in going over the books and papers of such company or association. If the insurance commissioner is, after such examination, of the opinion that such company or association should be restrained from doing business, he shall report such opinion, with the facts upon which it is based, to the attorney-general, who shall, if he thinks the facts warrant the report, apply to the judge or chancellor of any court having chancery jurisdiction for an order requiring the officers of the company or association to show cause at a reasonable time and place, why the company or association should not be restrained from continuing business: The company or association shall be entitled to trial or hearing by the judge or chancellor of the facts stated in the report, and shall not be forced to discontinue its business until the judgment or decree of the court; the court, judge or chancellor shall render a decree requiring the company or association to discontinue business, or shall dismiss the proceedings and tax the costs as the justice or merits may appear.

3571. (1120) (1551) *Life insurance companies, Masons, and like orders not affected.*—Nothing in the four preceding sections shall be construed to apply to any corporation under the life insurance laws of this or any other State or country, except such corporations as do exclusively a business, the character of which is described in section 3564 (1116), preceding; or to any secret or

benevolent society, such as the Masons, Odd Fellows, Knights and Ladies of Honor, Knights of Pythias, or like orders; nor to any association organized upon the lodge system for purely benevolent purposes, with ritualistic form of work.

3572. (1121) (1552) *Exemptions*.—The interest of resident members of such associations therein, and of resident beneficiaries provided for thereby, is exempt from all process for the collection of debts, or the enforcement of liabilities.

3573. *Single tax or co-operative associations or corporations; organization and regulation of*.—Ten or more persons desiring to associate themselves together, not for pecuniary profit in the sense of paying interest or dividends on stock, but for mutual benefit through the application of co-operation, single tax, or other economic principles, may become a body corporate in the manner following:

1. *Filing declarations*.—The persons proposing to form such corporation, shall file with the probate judge in the county in which it proposes to establish itself, a declaration in writing, setting out the name of said proposed corporation, the names of the charter members, and the purposes of said corporation.

2. *Charter; how issued*.—Upon the filing of such declaration the judge of probate shall issue to such corporation a charter, which shall be perpetual—subject to revocation at any time by the legislature.

3. *Organization*.—It may elect such officers as it may deem necessary, in such manner and for such terms as it may provide, and remove the same at any time, and adopt such constitution and by-laws as it may see fit not in conflict with the constitution and laws of this State.

4. *Powers*.—Such corporation shall have the power to buy, sell, and lease and mortgage real estate, to build and operate wharves, boats, and other means of transportation and communication, build, erect, and operate waterworks, electric lighting and power companies, libraries, schools, parks, and do any other lawful thing, incident to its purpose, for the mutual benefit of its mem-

bers; and may admit such other persons to participate in its benefits as it may see fit and upon such conditions as it may impose.

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## ARTICLE 14.

### INCORPORATION AND REGULATION OF MUTUAL AID, BENEFIT AND INDUSTRIAL COMPANIES OR ASSOCIATIONS. 3574-3588.

#### **SECTION.**

- 3574. Mode of incorporation.
- 3575. Capital stock, amount of.
- 3576. Certificate as to capital stock, contents of.
- 3577. Certificate of incorporation, filing and record of.
- 3578. Fees for incorporation.
- 3579. Powers of corporation.
- 3580. Directors of corporation.
- 3581. Copy of incorporation filed with insurance commissioner; five thousand dollars payment of cash subscriptions required.
- 3582. Moneys or funds of corporation, how invested.
- 3583. Capital stock, how increased.
- 3584. Mode of incorporation without capital stock.
- 3585. Majority of incorporators and trustees residents of state.
- 3586. Certificates verified and recorded.
- 3587. Board of trustees, number, election, powers, and duties of.
- 3588. Solvent assets, amount required.

3574. *Mode of incorporation.*—Five or more persons may become a body corporate, with a capital stock for the purpose of carrying on the business of a mutual aid, benefit and industrial company or association, by complying with the provisions of this article. Such persons shall make and file in the office of the judge of probate in the county in which the principal place of business of the proposed corporation shall be established, a certificate which shall be signed by all the subscribers, and which shall set forth:

- (a) The name of the corporation.
- (b) That the object and purpose of the corporation will be to do business as a mutual aid, benefit and indus-

trial company or association, with the powers and privileges prescribed by the State of Alabama.

(c) The location of the principal office of the corporation in this State.

(d) The total amount of the authorized capital stock, the number of shares into which it is divided, and the par value of each share, the names and postoffice addresses of two persons designated by the incorporators to receive subscriptions to the capital stock of the corporation.

(e) The names and postoffice addresses of the incorporators; the number of shares of stock subscribed for by each; the names and addresses of the directors and officers elected for the first year.

(f) The certificate may also contain any other provisions which the incorporators may desire to insert for the regulation of the business and affairs of the corporation, creating and defining the powers of the corporation, the directors and stockholders, or any class or classes of stockholders, provided that the same shall not be inconsistent with the provisions of this article, or with the laws regulating the business of mutual aid, benefit and industrial companies or associations.

**3575. Capital stock, amount of.**—No such corporation shall be organized with a capital stock of less than five thousand dollars, nor shall any such corporation be organized or commence business unless it has received not less than the sum of five thousand dollars in payment in cash for subscriptions to its capital stock. Nothing contained in this article shall be construed to require any corporation organized before the 9th day of August, 1907, as a mutual aid, benefit, or industrial company or association, and doing business in this State, to increase its capital stock.

**3576. Certificate as to capital stock, contents of.**—The certificate herein provided for shall have attached to it a statement, under oath, made by the two persons authorized by the incorporators to receive subscriptions to the capital stock, showing the amount of capital stock which has been subscribed, the amount which has been

paid in cash, and the amount of stock secured by contracts for stipulated labor or services, or by the transfer of property to the corporation.

3577. *Certificate of incorporation, filing and record of.*—The certificate of incorporation shall be filed and recorded in the office of the judge of probate in the county in which the principal place of business of the corporation is established, in a book kept by him for recording the certificates of incorporation; but the judge of probate shall not record it unless it complies with the provisions of this article. After it has been so recorded, the probate judge shall endorse thereon his certificate of registration, showing the book and page where recorded, and the date when recorded. The probate judge shall receive for his services fifteen cents for each one hundred words of the certificate of incorporation, and two dollars and fifty cents for examining the certificate.

3578. *Fees for incorporation.*—At the time of filing said certificate and at the time of filing a certificate increasing the capital stock of such corporations, the incorporators shall pay to the probate judge for the use of the State, the same fees as are now required to be paid by other corporations.

3579. *Powers of corporation.*—Every such corporation shall have the following powers:

(a) To have succession by its corporate name for the period limited in the certificate of incorporation; and when no period is limited, perpetually.

(b) To sue and be sued in any court of law or equity, and to make, renew the corporate seal, and to alter the same at pleasure.

(c) To acquire, hold, purchase, receive, and sell all such real and personal property as may be convenient or necessary in the conduct of its business.

(d) To appoint and employ such officers and agents of the corporation as its business may require.

(e) To make all needful rules and regulations for the transacting of its business and for the control of its property.

- (f) To carry on the business of mutual aid, benefit, and industrial companies or associations.
- (g) To increase or decrease its capital stock in the manner hereinafter provided.
- (h) To alter and amend its charter.
- (i) To consolidate with one or more like corporations engaged in business of mutual aid, benefit, and industrial companies or associations, whether incorporated in this State or some other State.

**3580. *Directors of corporation.***—Such corporations shall have not less than five directors, who must be stock-holders in the corporation. Such directors shall be elected for a term of one year, and until their successors are elected and qualified.

**3581. *Copy of incorporation filed with insurance commissioner; five thousand dollars payment of cash subscriptions required.***—Before doing business in this State, such corporation must file with the insurance commissioner of the State a certified copy of the articles of incorporation, which must be filed by him in his office, and must also make proof as may be required by said commissioner, under oath, of its officers authorized thereto, that said corporation has received and has on hand the sum of not less than five thousand dollars in cash, derived from the payments of subscriptions to its capital stock.

**3582. Moneys or funds of corporation, how invested.**—The moneys derived by such corporation from the payment of subscriptions to its capital stock, and in payment of sales of stock, may be invested in bonds of the United States, or of this State, or the cities or counties of this State, estimated at their cash market value, or in notes or mortgages secured by real estate or other collateral worth twice the amount of said mortgages or notes.

**3583. *Capital stock, how increased.***—Such corporation and any other corporation organized under the laws of this State on or before the 9th day of August, 1907, doing business as a mutual aid, benefit, or industrial company or association, may increase its capital stock by a

vote of the persons holding the larger amount in value of the capital stock of said corporation obtained at a regular or special meeting of the stockholders called for that purpose, of which notice must be given, stating the object for the meeting, and the amount of the proposed increase. If such meeting authorizes such increase, a certificate certified by the president and the secretary of the corporation must be filed and recorded in the office of the judge of probate of the county in which the corporation was organized, in the same manner as the original certificate of incorporation, and such certificate shall set forth the amount of such increase. A decrease in the amount of the capital stock shall be made, certified, and recorded in like manner; and a certified copy of such increase or decrease of the capital stock of such corporation shall be filed with the insurance commissioner, in like manner as the original certificate of incorporation; provided, however, that no increase shall be made unless the amount of such increase shall bring the capital stock of such corporation up to the amount of five thousand dollars full paid up in cash; and provided, further, that no such decrease shall diminish the capital stock below said sum of five thousand dollars.

3584. *Mode of incorporation without capital stock.*—Fifteen or more persons may become a body corporate, without capital stock, for the purpose of doing the business of a mutual aid, benefit, and industrial company or association, as follows:

(1) Said persons shall make and file a certificate in the office of the judge of probate of the county in which its principal place of business is proposed to be located. The certificate shall show the following:

(2) The name of the proposed corporation.

(3) The location of the principal office in this State.

(4) That the object or purpose of the corporation is to do business as a mutual aid, benefit, and industrial company or association, with the powers and privileges prescribed by the laws of the State of Alabama.

(5) That the incorporators have entered into bona fide agreements, for insurance of the kind authorized to be done by mutual aid, benefit, and industrial companies or associations, with not less than five hundred persons,

and shall have received therefrom not less than two thousand dollars in cash.

(6) That said sum of money is in the possession of two of the incorporators, designated by the subscribers to receive such money.

(7) Any other matters providing for the conduct of the business of the proposed corporation not inconsistent with the laws of the State of Alabama.

(8) The names, residences, and postoffice addresses of seven persons, selected from among the incorporators as trustees for said corporation, for its first year.

3585. *Majority of incorporators and trustees residents of State.*—A majority of said incorporators must be residents of the State of Alabama, and a majority of the trustees of such corporation must, at all times, be residents of the State of Alabama.

3586. *Certificates verified and recorded.*—The certificate must be verified by the oath of two incorporators, and filed with the probate judge and recorded in the same manner as the certificate of the incorporation of companies with capital stock, and a certified copy of the certificate must be likewise filed with the insurance commissioner, for which the same fees shall be charged as are provided for in the incorporation of stock companies.

3587. *Board of trustees, number, election, powers and duties of.*—The board of trustees of such corporation shall consist of not less than seven, nor more than nine persons, who must be members of the corporation. They shall be elected annually, to hold office until their successors are elected and qualified. Such board of trustees shall be the governing body of such corporation, and shall have the power to make all needful or proper rules, regulations, and by-laws for the conduct of the business of such corporation, not inconsistent with the laws governing mutual aid, benefit and industrial companies or associations, or any other laws of the State of Alabama. Such board of trustees shall be elected at an annual meeting, to be held at the principal office or place of business of said corporation at a time to be fixed by the by-laws of the corporation, and at such meeting the

members of such company or association may attend and vote on all matters before the meeting in person, or they may be represented by proxies, which must be in writing, and be executed at least thirty days prior to said meeting.

3588. *Solvent assets, amount required.*—Every corporation organized under the provisions of this article shall at all times own and possess solvent assets to the amount of one dollar and fifty cents for each one hundred dollars of insurance at risk, by such corporation, and in estimating and determining such amount there must be deducted therefrom any liabilities of such corporation, for any sums or amounts due or owing for any purpose, or claim other than liabilities upon its policies, contracts of insurance, or certificates of membership; provided such corporation with a capital stock may estimate and use the property or funds, in which its capital stock has been invested in accordance with this article, in determining the amount of said solvent assets.

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## ARTICLE 15.

EDUCATIONAL INSTITUTIONS, AMENDMENT OF CHARTERS. 3589-3592

### SECTION.

- 3589. Amendment of charter.
- 3590. Powers which may be embraced in amendment.
- 3591. Fees for filing amendment.
- 3592. Certified copy of amendment.

3589. *Amendment of charter.*—Any educational institution heretofore incorporated and authorized to grant diplomas and confer degrees, may amend its charter as follows:

The trustees of such corporation must adopt a resolution which must be spread upon the minutes of such trustees, which resolution must embrace the desired amendments of the charter, which must then be submitted to the governor, and if approved by him, he shall indorse his approval upon such resolution. It must

then be filed in the office of the secretary of State, and when so approved and filed, it shall become a part of the original charter of such institution.

*3950. Powers which may be embraced in amendment.*

—The amendment of the charter provided for in the foregoing section may include a change of name, power to confer degrees and grant diplomas, to hold real and personal property not exceeding in value one million dollars, to borrow money, mortgage or pledge property of the corporation, to change the number of trustees and the manner of appointing or electing the same; but if authorized to mortgage property, and stock is owned in said institution, it must be only upon the consent of the holders of three-fourths in value of the capital stock of such corporation, which must be expressed in writing and recorded as a deed or mortgage and executed in the form required for deeds, mortgages, or other conveyances.

*3591. Fees for filing amendment.*—Before filing the amendment in the office of the secretary of State, the trustees must pay to the secretary of State a fee of twenty-five dollars, which shall be paid into the State treasury.

*3952. Certified copy of amendment.*—Upon the approval, filing, and payment of fees for such amendment, as provided for in the foregoing sections, and the payment to the secretary of State of the fee of fifteen cents per one hundred words and an additional fee of one dollar, the secretary of State shall issue to such trustees a certified copy of such amendment under the seal of the State.

## ARTICLE 16.

## ANNUAL CONFERENCES OF ITINERANT MINISTERS, INCORPORATION OF. 3593-3596.

## SECTION.

- 3593. To incorporate conferences of itinerant ministers.
- 3594. Powers of such incorporation.
- 3595. Change of name.
- 3596. Defective incorporation cured by re-incorporation.

**3953. *To incorporate conferences of itinerant ministers.***—Whenever ten or more itinerant ministers of the gospel desire to be legally formed into a body corporate, they shall file with the Secretary of State a declaration in writing, signed by them, setting forth the corporate name they desire to have, the name of the denomination or branch of the church of God with which they are in affiliation, and to whose rules and articles of belief they conform; and shall pay the secretary of State a fee of ten dollars; whereupon the secretary of State, in the name of the State of Alabama, shall issue a certificate of incorporation or charter to said corporation.

**3594. *Powers of such incorporation.***—All corporations formed under the provisions of this article shall have and exercise these powers:

- (1) To have perpetual succession by its corporate name.
- (2) To take and grant property, to contract obligations, and to sue and be sued by its corporate name in the same manner as an individual.
- (3) To buy lands and other property, to receive grants of privileges and immunities, and hold the same for the benefit of its members and their successors.
- (4) To receive gifts and grants, in trust for the advancement of the Christian religion, and education, and to execute such trusts.
- (5) To lend any fund belonging to the corporation, or held by it in trust, and take security therefor, in bond with sureties, in pledges of personlty, or in mortgages of property.
- (6) To have a corporate seal.

(7) To make by-laws for the government of the corporation in conformity with the general laws and usage of that branch of the Christian church with which it affiliates.

(8) To prescribe the number and qualifications of its members, and may expel the same for cause.

(9) To appoint and remove its officers, require bonds of such of its officers, or agents, as it may deem proper.

3595. *Change of name.*—Any annual conference, that has heretofore been incorporated by an act of the legislature of Alabama, and desires to change its name, or any corporation created hereunder, desiring to change its name, may file with the secretary of State a declaration in writing, showing the proposed amendment, and must pay the secretary of State a fee of ten dollars; whereupon the secretary of State shall issue to said corporation a charter in its new name.

3596. *Defective incorporation cured by reincorporation.*—Whenever any annual conference has heretofore been organized, according to the law of any branch of the Christian church, but has not been incorporated, or the act of incorporation is for any reason believed to be defective, or does not confer the powers necessary for the purpose of such body, the said conference may become a body corporate hereunder, as the successor of said unincorporated or defectively incorporated body by incorporating in the declaration prescribed in the first section of this article, the name of the body it desires to succeed; and upon the granting of a charter under this article it shall be taken and held by the body or bodies, named in such declaration, and shall take and hold all the property, rights, and privileges of its predecessor, as fully as though they had been granted to the succeeding corporation.

## ARTICLE 17.

BUILDING AND LOAN ASSOCIATIONS. 3597-3612.

## SECTION.

- 3597. *May be incorporated.*
- 3598. *Mode of incorporation.*
- 3599. Record of declaration; certificate of incorporation.
- 3600. Powers of such corporation.
- 3601. Increase of capital stock. ..
- 3602. Hypothecation of securities.
- 3603. The name "building and loan association" defined.
- 3604. Annual report, with answers to certain questions, to be filed with the auditor.
- 3605. Fee to be paid on filing report; penalty for failure to report, etc.
- 3606. Non-resident associations must file statement and pay fee before doing business here.
- 3607. Associations may impose fines and penalties not to exceed two per cent, etc.
- 3608. Premium upon loans must be fixed by by-laws, not to exceed twelve per cent, including interest.
- 3609. On foreclosure of mortgage all payments made on debt and value of stock pledged to be credited.
- 3610. Shares of stock one year old must have definite withdrawal value, etc.
- 3611. Officers to give bond.
- 3612. Foreign association; requirements.

3597. (1122) (1553) *May be incorporated.*—Three or more persons, associating as a building and loan association, may become a corporation in the mode, and with the powers and capacities in this article expressed; and such corporation may continue for twenty years.

3598. (1123) (1554) *Mode of incorporation.*—Such persons must file in the office of the judge of probate of the county in which it is proposed the association shall have its principal place of business, a declaration in writing, signed by each of them, stating—

- (1) The name and style under which it is proposed to incorporate such association.
- (2) The amount of the capital stock, and the number of shares into which it is divided.

(3) The names and residences of the associates or subscribers to the declaration, and the principal place of business of the corporation.

(4) The purposes of the corporation and the nature of its business, and such other matters as they may deem desirable.

**3599.** (1124) (1555) *Record of declaration; certificate of incorporation.*—The judge of probate must record such declaration, and must issue to the subscribers, their associates and successors, a certificate of incorporation, under the seal of his office, stating therein the filing and record of such declaration, the name and style of such corporation, the location or principal place of business thereof, and that the subscribers, their associates and successors, are a body politic and corporate; and thereafter such corporation must be deemed duly organized.

**3600.** (1125) (1556) (1943, 2019) (1767) (1481) *Powers of such corporation.*—Such corporation has power—

(1) To have succession by its corporate name for the period expressed in the declaration, not exceeding twenty years.

(2) To sue and be sued; and, if deemed necessary, to have a common seal, and the same at pleasure to alter or change.

(3) To hold, purchase, dispose of, and convey such real or personal property as may be necessary for the uses and business of the corporation.

(4) To appoint and remove, at pleasure, such officers and agents as the business of the corporation may require, prescribing their duties, and fixing their compensation; and to make all needful rules and regulations and by-laws for the transaction of its business, and the management and control of its affairs.

(5) To levy monthly contributions from the shareholders, not to exceed one dollar per share in any one month.

(6) To compel payment, and compliance with all lawful orders, by fines and forfeitures.

(7) To acquire real estate, to erect buildings, and the same to let to any shareholder of the corporation, or to sell to such shareholder on such terms as may be fixed by its by-laws.

(8) To aid shareholders in the erection or improvement of houses by loans of the funds of the association, on such security as may be fixed by the by-laws.

(9) When funds are on hand, to lend the same to any shareholder of the corporation, on such security, and on such terms and conditions as may be prescribed by the by-laws; but the security shall be a mortgage on real estate sufficient to protect the association.

(10) To secure the payment of installments and loans, and a compliance with all the terms on which loans are purchased by mortgages with power of sale on real estate, and the same to foreclose, in case of default, by a public sale to the highest bidder, and by conveyance to the purchaser; and such purchaser need not be a shareholder.

(11) In determining the amount of the capital stock of the association, each share shall be valued at fifty dollars.

3601. (1126) *Increase of capital stock.*—The capital stock of building and loan associations, incorporated under the general laws of this State, may be increased to a sum not exceeding two million dollars by the vote of the persons holding the larger amount in value of the capital stock at a meeting of the stockholders called for that purpose, of which meeting, and the purpose for which it is called, thirty days' notice must be given by publication for four consecutive weeks in some newspaper published in the town or city in which the corporation is located; and if at such meeting the persons holding the larger amount in value of the stock shall vote for such increase, the proceedings of the meeting must be reduced to writing, signed by the president or other head of the corporation, and filed and recorded in the office of the judge of probate of the county in which the corporation has its principal place of business. In determining the amount of the increased capital stock of all building and loan associations incorporated prior to the Code of 1876,

each share shall be valued at not less than forty nor more than fifty dollars.

3602. (1127) *Hypothecation of securities.*—No building and loan association, not organized under the laws of this State prior to February 7th, 1893, shall pledge, hypothecate, or transfer any note, bond, mortgage, or securities which the association may obtain for money loaned or otherwise.

3603. (1128) *The name "building and loan association" defined.*—The name "building and loan association," as hereafter used in this article, shall include all corporations, societies, organizations, or associations doing business in this State, under a building and loan charter, or engaged in a building and loan business.

3604. (1129) *Annual report, with answers to certain questions, to be filed with the auditor.*—On or before the first day of March in each year, every building and loan association doing business in this State, and governed by this article, shall file with the auditor of the State, a detailed report of its affairs and operations for the year ending the thirty-first of December, immediately preceding, and such report shall be verified under oath by the president and secretary, or by three directors of the association, and shall contain answers to the following questions: (1) The date when the association was incorporated and the par value of each share of stock. (2) The number of shares sold during the year. (3) Number of shares canceled or withdrawn during the year. (4) Number of shares in force at the end of the year. (5) A detailed statement of total receipts and disbursements, showing from what source received, and to what source applied. (6) A statement of the assets and liabilities at the end of the year. The following items shall constitute the assets of a building and loan association: (1) Money actually lent. (2) Accrued interest and premium fines and forfeitures. (3) Furniture and fixtures. (4) Real estate. (5) Taxes and insurance advanced. (6) Solvent credits. (7) Such other legitimate assets as the association may acquire in the course of its business. (8) Cash on hand, as shown by

books and official certificate of designated depositories.

(9) File a copy of its by-laws and published literature, which shall be free from ambiguity and not misleading in its nature.

3605. (1130) *Fee to be paid on filing reports; penalty for failure to report, etc.*—Each association shall pay to the State auditor ten dollars on the filing of each report. If an association shall willfully fail to furnish to the auditor of the State any report required by this article, at the time so required, it shall, in the discretion of the auditor, forfeit the sum of twenty-five dollars per day for every day such report shall be delayed or withheld, and the State auditor may maintain action in his name as such auditor, to recover such penalty, and the same shall be paid into the treasury of the State for the benefit of the State.

3606. (1131) *Nonresident associations must file statement and pay fee before doing business here.*—Nonresident building and loan associations having not less than one hundred thousand dollars in assets shall, before doing any business in this State, obtain a license from the secretary of State, by complying with the following: (1) Such association shall file with the secretary of State a certified copy of its charter or articles of incorporation, and by-laws, showing its mode of business. (2) A detailed report of its actual condition, as provided for in the preceding section. (3) Pay the secretary of State twenty-five dollars as a fee for filing the papers mentioned in this section.

3607. (1133) *Associations may impose fines and penalties not to exceed two per cent, etc.*—Such associations may by their by-laws, impose fines and penalties upon their members for default or delay in payment, when same are due, of installments upon their loans, the interest, premium, and charges thereon, and upon the shares of stock of such members, and the same may be secured and collected by mortgage, in addition to the amount of interest, premium, and other charges allowed by law, but such fines shall not exceed two per cent per month of such arrearages.

3608. (1134) *Premium upon loans must be fixed by by-laws, not to exceed twelve per cent, including interest.*—The premium to be charged upon any loan must be fixed by the by-laws, but such premium and the interest on the loan taken together shall not exceed one per cent per month on the amount actually lent or advanced.

3609. (1135) *On foreclosure of mortgage all payments made on debt and value of stock pledged to be credited.*—Upon foreclosure or sale under power given in any mortgage of land by a member to such association it shall credit, as of the date made, upon the entire debt claimed by the association all payments made upon such debt, whether of principal, premiums, or interest, and the stock pledged for such loan shall be credited on the said loan at its actual value, and such stock thereby canceled; and upon forfeiture of stock of a member borrowing from such association, upon security of his stock only, such loan shall be credited with the actual value of such stock.

3610. (1136) *Shares of stock one year old must have definite withdrawal value, etc.*—All shares of stock in said association, upon which all dues and charges for one year or more have been paid, shall have a definite withdrawal value, which shall be set out in the by-laws of said association, and shall not be less than eight per cent per annum thereon for the average time such dues have been paid, less fines and penalties, and a proportionate share of expenses and losses sustained.

3611. (1137) *Officers to give bond.*—All of the officers of the home office of any building and loan association governed by this article and doing business in this State, who handle any of the funds of such association, shall give sufficient bonds for the faithful performance of their duties as the board of directors may require, and no such officer shall be deemed qualified to enter upon the discharge of the duties of his office until his bond is approved by the board of directors.

3612. (1138) *Foreign associations; requirements.*—When, by the laws of any other State, territory, or for-

eign government, any taxes, penalties, fines, license fees, deposits of money or securities, or other obligations, requirements or prohibitions, are imposed on building and loan associations of this State, doing business in such other State, territory, or foreign government, or upon their agents therein, so long as such laws shall continue in force, the same obligations, requirements, and prohibitions of whatever kind shall be imposed on all building and loan associations of such other States, territories, or foreign governments doing business in this State, and upon their agents here. But this section shall not apply to building and loan associations which had established branches or agencies in this State prior to February 7th, 1903.

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## ARTICLE 18.

### CORPORATIONS NOT OF A BUSINESS CHARACCTER. 3613-3626.

#### SECTION.

- 3613. Religious, educational, benevolent, and burial societies.
- 3614. Incorporation complete on trustees filing certificate.
- 3615. Powers.
- 3616. How suits against commenced.
- 3617. How church mortgage executed.
- 3618. Recital in minutes evidence.
- 3619. Special privileges of burial societies.
- 3620. Chairman of board.
- 3621. Social and literary societies.
- 3622. Exemption from taxation.
- 3623. Forfeiture of charter for gaming.
- 3624. May increase membership.
- 3625. May alter and amend charter.
- 3626. Declaration to be verified; duties of probate judge or secretary of state.
  
- 3613. (1302) (1694) (1991, 1994, 2000, 2001) (1521, 1524, 1529, 1530) (1257, 1258, 1259, 1260) *Religious, educational, benevolent, and burial societies.*—The members of any church or religious society, of an educational society, benevolent society, or the owners of a grave-

yard, desiring to become incorporated, shall elect not less than three, nor more than nine trustees.

3614. (1303) (1695) (1992) (1522) (1258) *Incporation complete on trustees filing certificate.*—Such trustees shall, within thirty days after their election, file in the office of the judge of probate of the county in which the corporation is to exercise its functions, a certificate stating the corporate name selected, the names of the trustees, and the length of time for which they were elected; which certificate shall be subscribed by them, and recorded. The members of such society, their associates and successors are, from the filing of such certificate, incorporated by the name therein specified.

3615. (1304) (1696) (1996) (1526) (1262) *Powers.*—Corporations created under this article may hold real and personal property, not exceeding in value five hundred thousand dollars, may receive property by gift, will, or devise, holding the same in conformity with all lawful conditions imposed by the donor, and exercise such other powers as are incident to private corporations.

3616. (1305) (1697) (1999) (1527) (1263) *How suits against commenced.*—In all suits of legal proceedings, the service of process and papers on a trustee of such corporation is valid for the purpose of bringing such corporation into court, or for the objects of the notice.

3617 (1306) (1698) (1997) *How church mortgage executed.*—The trustees, or other authorized agents of any society or church, organized by special charter, or under the general laws of this State, may, by mortgage or deed of trust, convey all, or any part of the property thereof, real or personal, to secure the payment of any debt contracted by the trustees or other authorized agents; but this section shall first have been accepted as an amendment to the organic law of such society or church, if not already a part of it, by a majority of the adult members of such society or church, assembled after ten days' notice of the time, place, and object of such meeting, posted at the usual place of assembly, and pub-

lished by announcement at a regular meeting for at least one week prior to such action; no such mortgage or deed of trust shall be executed without the consent of a majority of such trustees and a majority of the adult members of such organization, voting thereon at a meeting assembled after ten days' notice as above.

3618. (1307) (1699) (1998) *Recital in minutes evidence.*—A recital upon the minutes of the proceedings of such society or church, that such notice was given, and of the vote upon the question before the meeting, shall be evidence of the regularity of such meeting, and of the proceedings therein.

3619. (1308) (1700) (2003) (1532) *Special privileges of burial societies.*—Burial societies so incorporated may exercise all powers necessary for properly governing, beautifying, improving, and taking care of such graveyard, and may make such by-laws, rules, and regulations as are proper and necessary to secure such objects.

3620. (1309) (1701) (2004) (1533) *Chairman of board.*—When such graveyard is wholly under the control of persons belonging to one denomination of faith, the elder, deacon, minister, bishop, or priest, who is the head of such denomination in the city, town, village, or county, shall be ex officio the chairman of such board of trustees; and when such graveyard is under the control of persons of different denominations, such heads of the denominations interested shall be members of the board.

3621. (1310) (1702) (2005) *Social and literary societies.*—Whenever ten or more persons desire to form a society for the social and literary advancement of its members, they may become incorporated and entitled to all the privileges of private corporations in the following manner:

(1) Such persons shall first adopt a constitution and elect officers, and such officers shall file in the office of the judge of probate of the county in which such society is located, a declaration in writing, stating the name,

object, and purposes of the society, the adoption of the constitution, the names and style of its officers, the number of its members, and whether such society issues shares of stock, or is formed for pecuniary purposes, and if so, then the amount of stock, the number of shares into which it is divided, and by whom held.

(2) The declaration shall be signed by the officers, acknowledged or proved as in case of deeds, and recorded in the office of such judge of probate.

3622. (1311) (1703) (2006) *Exemption from taxation*.—The property of corporations formed bona fide under this article, for other than pecuniary purposes, shall be, to an amount not exceeding two thousand dollars, exempt from all State, county, and municipal taxation and licenses; but if used for any other purpose than legitimately pertains to the object of such society, it shall not be so exempt.

3623. (1312) (1704) (2007) *Forfeiture of charter for gaming*.—If any society, incorporated under this article, permits any games to be played for wager, it thereby forfeits its charter, and ceases to be a body corporate.

3624. (1313) *May increase membership*.—Any society which has heretofore, or which may hereafter, be organized under the laws of this State, for the social and literary advancement of its members, may enlarge its membership by filing in the office of the judge of probate of the county in which such society was incorporated, a written declaration, signed by a majority of the existing members of such society, to the effect that such extension is declared and made, and fixing the limit thereof.

3625. (1314) *May alter and amend charter*.—Any corporation, not of a business character, may alter or amend its charter whenever not less than three-fourths in number of the members thereof shall file in the office of the judge of probate of the county wherein the original declaration of incorporation was filed, or in cases where the charter was granted by an act of the legislature, prior to the adoption of the Constitution of 1901,

in the office of the secretary of State, a declaration in writing signed by them setting forth—

(1) When such corporation was organized, its name, what changes, if any, it is desired to make in such name.

(2) The purposes of such corporation, as the same are set forth in the original declaration of incorporation, and the alterations and amendments thereof, if any such are desired.

But no such change or alteration in the charter or the character of any corporation shall authorize it to exercise any powers or do any acts which similar corporations are not authorized to exercise and do, under the laws existing at the time such alteration or amendment is made, nor to decrease its stock below the minimum fixed by existing laws.

3626. (1315) *Declaration to be verified; duties of probate judge or secretary of State.*—Such declaration shall be verified by the affidavit of some one or more of the signers, stating that the statements contained therein are true, and the signers thereof signed the same in the presence of affiant, or acknowledged their signatures thereto to him; and upon the filing of such declaration in the office of the judge of probate or secretary of State, as the case may be, it shall be the duty of such officer to issue a certificate, certifying that such corporation under its new name and style, is duly authorized to do business with the powers and capacity conferred after such alterations and amendments. Such declaration and certificate must be recorded in the office of the judge of probate or the secretary of State, in and from which the same are filed and issued.

## ARTICLE 19.

POWER COMPANIES. 3627-3637.

## SECTION.

- 3627. Power companies; additional powers conferred.
- 3628. To flood ferries.
- 3629. Right to flood roads.
- 3630. Right of way.
- 3631. Use of public roads.
- 3632. Incidental rights in construction.
- 3633. Removal of timber from right of way.
- 3634. Authority to erect dams.
- 3635. Shall have powers conferred upon other public service corporations.
- 3636. Duty to serve the public.
- 3637. Procedure for condemnation.

**3627. *Power companies; additional powers conferred.***

—All corporations organized under the general laws of this State or heretofore under a special act of the legislature, and all corporations organized under the laws of any other of the United States, and which have complied with the constitution and laws of the State of Alabama as to foreign corporations, and which by their charter have the right to manufacture, supply, and sell to the public, power produced by water as a motive force, shall, after acquiring by purchase or otherwise than by condemnation, a dam site or power site comprising not less than one acre of land upon each and opposite sides of any water course, in addition to other powers conferred by law, have the following rights, powers, and authority:

To acquire by condemnation the lands and rights necessary for the construction and operation of said dam, and works connected therewith or useful thereto, either up or down stream therefrom, and (in the case of non-navigable streams) to construct and operate at said site, or other point up or down the stream therefrom, and across said stream, a dam, together with all works incident, necessary, or related thereto and in connection therewith to impound or divert water of any water course or water courses of this State, and to raise higher

such dam and to enlarge the works necessary, related or incident to, and to construct other works necessary, incident or related thereto, either up stream or down stream therefrom, as may be required or deemed expedient by such corporation, in the manufacture and supply of power produced by water as a motive force.

To acquire by condemnation all lands or waters or interests or rights or easements in lands or waters likely or liable to be flooded or damaged by impounding or diverting the water of any water course in this State, or its tributaries, or necessary for the construction or operation of dams or power houses, or works necessary, incident, or related thereto, or likely or liable to be flooded or damaged by the construction or operation or enlargement of the dams, or works incident, necessary, or related thereto, or damaged or taken in the construction, operation, or use of canals, tail-races, or exit ways necessary, useful, or convenient for the escape, conveyance or return of the water used in the operation of the works or power plant.

To acquire by condemnation the necessary lands for sub-stations and transmission lands, but shall have no right to condemn a private residence, nor the outhouse, garden, nor orchard within the curtilage of a private residence, for a sub-station site or for rights of way for its transmission line or lines. Such corporation shall have no right to condemn lands, water, or water rights in use for power purposes by another corporation upon the same water course, having similar powers and essential to its operations; or lands, water, or water rights held by such other corporation for power purposes where the lands, water, or rights in themselves and taken alone or in connection with other lands, water, or rights owned by such other corporation, can be made the reasonable basis of a water power development of at least one thousand continuous horse power; but may condemn lands, hydraulic structures, water, or water rights held by such other corporation at any point upon the same water course, unless the lands, structures, or rights in themselves and taken alone or in connection with other lands or rights owned by such other corporation can be made the reasonable basis of a water power development of at least five hundred continuous horse power,

and may condemn lands, hydraulic structures, water, or water rights of such other corporation, at any point upon the same water course, in excess of such other corporation's actual facilities for using the same (independently of the actual or proposed works of the condemning party) for the manufacture of power by its plant as the same is already established at the time the condemnation proceeding is begun, provided the plant of such other corporation has been in operation for five years or more preceding the commencement of the condemnation proceedings. Nor shall such corporation have the right to condemn the lands, hydraulic structures, water, or water rights of any cotton factory, at any point upon the same water course, in actual and prior use by it for the operation of its plant; but may condemn the lands, hydraulic structures, water, or water rights of such cotton factory in excess of what is actually in use, or may be used at normal stages of the stream, for the operation of its plant as already established at the time the condemnation proceeding is commenced. Such corporation may by condemnation acquire the right to flood grist mills and industries in conjunction therewith, together with lands and water rights appertaining thereto. In all cases just compensation shall first be paid to the owner in the manner provided by law for all property taken.

3628. *To flood ferries.*—Such corporations shall also have the right and authority to acquire by condemnation the right to flood public and private ferries and the approaches thereto, but said corporation in the event of acquiring said property by condemnation, shall relocate and place public ferries and the approaches thereto in a condition satisfactory to the court of county commissioners or board of revenue of the counties in which said public ferries are located.

3629. *Right to flood roads.*—Such corporations shall have the right and authority to acquire by condemnation the right to flood private roads, and shall have the right to flood public roads by paying to the court of county commissioners or board of revenue of counties in which public roads are, the cost of locating, laying out,

and opening other public roads in lieu of and to the same extent as the public roads flooded or intended to be flooded.

3630. *Right of way.*—Such corporations shall have the right and authority to acquire by condemnation, ways and rights of way not exceeding a width of one hundred feet for the total length of such rights of way upon which to erect tower, pole, or wire lines for the manufacture, supply, and sale of power produced by water as a motive force, provided such corporation shall have no right without consent to construct and operate tower, pole, and wire lines upon the right of way of any steam or electric railroad, telegraph, or telephone company, except to cross the same; and provided such corporation shall have no right without consent to construct and operate tower, poles and wire lines upon the right of way of another corporation having the power to manufacture, supply, and sell power, produced by water as a motive force, except to cross the same.

3631. *Use of public roads.*—Such corporations shall have the right and authority to erect and operate tower, pole, and wire lines across, along, and on public roads, subject to the regulation of the court of county commissioners or board of revenue of the counties in which said roads are located.

3632. *Incidental rights in construction.*—Such corporations shall have the right and authority to acquire by condemnation ways and rights of way, not exceeding a width of one hundred feet, for the total length of such rights of way, for the purpose of constructing earth, steam, and electric roads for the transportation of material, equipment, and supplies required or useful in the construction, operation, and maintenance of the said dam and works incidental and necessary thereto.

3633. *Removal of timber from right of way.*—Such corporation shall have the right and authority to clear and remove from rights of way and from lands likely and liable to be flooded all timber and other growth, and the right and authority to remove outside of said rights of way such timber as may injure or endanger by shade-

ing, falling, or otherwise, any of its works, and for that purpose may acquire such timber by condemnation.

**3634. Authority to erect dams.**—Any dam erected in accordance with the provisions of this statute, shall be considered a dam authorized by the legislature of this State at the particular site selected and of the specific height and dimensions determined upon.

**3635. Shall have powers conferred upon other public service corporations.**—Such corporations and public utility corporations shall have and exercise all the rights, powers, and privileges now and hereafter conferred upon public utility corporations.

**3636. Duty to serve the public.**—Any corporation which exercises any of the rights conferred by this article, shall, after the completion of its works and plants, be under the duty and obligation to the public to manufacture and sell to the public electric current produced at its plants, and any corporation manufacturing, selling, and supplying power, heat, light, or electricity produced by water as a motive force under the provisions of this article, must sell such power, heat, light, or electricity to any person or persons, municipal or other corporations, in the order in which requests or demands are made for such light, heat, power, or electricity. Nothing herein, however, shall be construed to require any such corporation to furnish light, heat, power, or electricity to any person or persons, corporation or corporation, until satisfied of his or its financial responsibility, and except in conformity with its reasonable rules and regulations and reasonable prices for the same, and except as far as the capacity of its plant will permit.

**3637. Procedure for condemnation.**—The procedure for condemnation under this article shall be in the manner provided for the condemnation of lands and rights of way for public use, in article 1 (1), chapter 79 (42), of the Code; or, at the option of the condemning party, in the manner provided in any other statute conferring the power of eminent domain on public utility corporations.

FRANK N. JULIAN,

Secretary of State.

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